

# ERRATA

The following list notes the errors found after a review of the major appropriation acts of the special session of 1977 as printed in the Session Laws of Hawaii; specifically, Acts 1, 4, 5, 6, 9, 10, 11, and 13.

Page 512	Item UN. 1, line 4	"slide" should be "end".
520	Subsection (c), line 8	"dept" should be debt".
524	Item 14	"19.00T" should be "19,000T".
531	Item 30, line 4	"TRN" should be inserted in Exp. Agy. column.
532	Item 4, line 5	"Investment: Capital" should be inserted in Program column.
532	Item 7, line 2	"Operating" should be "Investment: Capital".
533	Item 5	"Common" should be "Commun".
536	Item 24	"891,614" should be "891, 614A", and "1,682,427" should be "1,682,427A".
537	Item 33	"1.00" should be "1.00*", and asterisk appearing in right-most column should be deleted.
538	Item 35	"9.50" should be "9.50*", and asterisk appearing in right-most column should be deleted.
542	Item 20	"7.45" should be deleted from right-most column and inserted in FY 1977-1978 column.
584	Item 2	"29.00*" should be deleted from Exp. Agy. column and inserted in FY 1978-1979 column.
586	Item 11	"120,000C" in FY 1978-1979 column should be "3,120,000C".
589	Item 2, line 3	"REG" should be inserted in Exp. Agy. column.
597	Section 12, line 3	"provided to the County of Hawaii for a carrying capacity study;" should be inserted after "be".
598	Section 18, line 5	"and" after "Unit" should be deleted.
604	Section 49	"1977-78 and \$2,109,056 and 81.31 positions for fiscal year" should be inserted after "year".
608	Section 74	"\$50,000(8.)" should be "\$50,000(2.00)".
610	Item 1	"1" for Design and "1" for Construction should be inserted in right-most column.
614	Item 17, line 9	"30" should be inserted in FY 1978-79 column, and "60" should be inserted in Total Biennium 1977-79 column.
624	Item 24	"103" should be "103".
627	Item 35	

Entries for Land Acquisition and Total Funding should read as follows:

	FY 1977-78	M O F	FY 1978-79	M O F	Total M Biennium D 1977-79 F
Land Acquisition				200	200
Total Funding		D L	700 130L		700 130L

630	Item 49, second column	"Drainage improvements at various locations on Kamehameha V Highway, Kaunakakai to Kapaala and Maunaloa Highway." should be inserted after line 3.
635	Item 4	"establishment" should be "replenishment".
637	Item 4, line 2	"line" should be "linen".
640	Item 16	"120" should be "120".
649	Item 34	"Act 218/75" should be "Act 218/74".
660	Item 83	"NFW" should "Nev".
679	Item 39	"Makana-Laperhouse" should be "Makana-Laperouse".
687	Item 4	Second "33" in FY 1977-78 column should be "333".
698	Right-most column, top of page	"538,870A" should be "539,870A".
700	Second column, near bottom of page	"7.00" should be "7.00*".
703	PUBLIC SAFETY, right-most column	"125,500A" should be "123,500A".
712	Item 5, FY 1978-79 column	"298.00*" should be "289.00*".

**SESSIONS LAWS**  
OF  
**HAWAII**  
PASSED BY THE  
**NINTH STATE LEGISLATURE**

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**REGULAR SESSION**  
**1977**

Convened on Wednesday, January 19  
and  
Adjourned Sine Die on Wednesday, April 20

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**FIRST SPECIAL SESSION**  
**1977**

Convened on Monday, May 9  
and  
Adjourned Sine Die on Friday, May 13

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Published by Authority of the  
Revisor of Statutes  
Honolulu, Hawaii

The Property of the State of  
Hawaii in the official keeping of

Conference Room

## **AUTHORITY**

**Section 23G-13, Hawaii Revised Statutes, provides as follows:**

**Publishing of session laws.** As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

## **PREFACE**

This volume contains all the laws of the Regular and First Special Sessions of 1977. In the preparation of the volume, the text of the laws as enacted has been followed except for palpable clerical errors, which have been corrected, and the text has been printed in full except for laws amending existing statutes.

Amendatory legislations provide that the revisor of statutes, in printing the laws, need not print the brackets or the bracketed material (designating matter deleted from existing statutes), nor the underscoring (designating new matter). For purposes of economy and readability, the laws have generally been edited as so permitted. In some cases, where the changes in language appeared not to be readily ascertainable without the brackets and underscoring, such designations have been retained and printed herein. Notes indicate the laws that have been edited.

**HIDEHIKO UYENOYAMA**  
Revisor of Statutes

Honolulu, Hawaii  
July 15, 1977

STATE OF HAWAII  
ELECTED OFFICIALS AND LEGISLATIVE OFFICERS

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UNITED STATES CONGRESS

Senate:

Daniel K. Inouye  
Spark M. Matsunaga

House of Representatives:

Daniel K. Akaka  
Cec Heftel

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STATE EXECUTIVE OFFICERS

Governor of Hawaii ..... George R. Ariyoshi  
Lieutenant Governor ..... Nelson K. Doi

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OFFICERS AND MEMBERS OF THE  
NINTH STATE LEGISLATURE  
REGULAR AND SPECIAL SESSIONS  
1977

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Vice President ..... Duke T. Kawasaki  
Clerk ..... Seichi Hirai

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Richard Henderson (R)  
John T. Ushijima (D)

Second District—(Maui, Molokai,  
Lanai, Kahoolawe)  
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Mamoru Yamasaki (D)

Third District—(Oahu)  
D.G. Anderson (R)  
Mary George (R)  
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Fourth District—(Oahu)  
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Joseph T. Kuroda (D)  
Francis A. Wong (D)  
Patsy K. Young (D)

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Richard S.H. Wong (D)  
T.C. Yim (D)

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Jean S. King (D)  
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Patricia Saiki (R)  
W. Buddy Soares (R)

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George H. Toyofuku (D)

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Speaker ..... James H. Wakatsuki  
 Vice Speaker ..... Daniel J. Kihano  
 Clerk ..... George M. Takane

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**Session Laws of Hawaii  
Passed By The  
Ninth State Legislature  
Regular Session  
1977**

ACT 1

H.B. NO. 3

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated from the general revenues of the State the sum of \$1,526,400, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1978, including but not limited to the 1977 regular session, Ninth State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1977 and 1978 regular sessions.

SECTION 2. There is hereby appropriated from the general revenues of the State the sum of \$1,974,519, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1978, including but not limited to the 1977 regular session, Ninth State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1977 and 1978 regular session.

SECTION 3. Payment of expenses of the Senate during the interim between the 1977 and 1978 regular session shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1977 and 1978 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 18, 1978, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 18, 1978.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provision of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be

## ACT 1

\$45 per day and authorized by the President of the Senate or the Speaker of the House of Representatives, respectively.

SECTION 6. There is hereby appropriated from the general revenues of the State the sum of \$1,149,094 to the office of the legislature auditor for the following expenses: (a) the sum of \$912,094, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1977-1978; provided, that of the sum appropriated, \$2,500, or so much thereof as may be necessary, shall be used for the preparation and publication of a taxation and finance manual for the next constitutional convention; (b) the sum of \$87,000, or so much thereof as may be necessary, for defraying the expenses of the office of the State ethics commission during the fiscal year 1977-78; (c) the sum of \$150,000, or so much thereof as may be necessary, to be expended upon approval of this Act, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) interim legislative studies and for contractual services for such studies, (5) equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material, and (6) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives, or of the Senate and the House of Representatives through the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 7. There is hereby appropriated from the general revenues of the State the sum of \$1,050,285, to the legislative reference bureau for the following expenses: (a) the sum of \$620,927, or so much thereof as may be necessary, for defraying the expenses of the legislative reference bureau during the fiscal year 1977-78; and (b) the sum of \$429,358, or so much thereof as may be necessary, for defraying the expenses of the office of the revisor of statutes during the fiscal year 1977-78; provided that notwithstanding section 9 of Act 1, Session Laws of Hawaii 1976, \$110,000 of the appropriation under section 7 of that Act to the office of the revisor of statutes shall be expended for the publication of replacement volumes of the Hawaii Revised Statutes, subject to section 9 of this Act.

SECTION 8. There is hereby appropriated from the general revenues of the State the sum of \$277,669, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1977-78.

SECTION 9. As of the close of business on June 30, 1978, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is hereby declared to be severable

from the remainder of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved February 3, 1977.)

## ACT 2

H.B. NO. 230

A Bill for an Act Relating to Industrial Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** (a) The Legislature finds and declares that the immediate establishment of an insurance guaranty program to protect public investors in industrial loan companies is deemed urgent and necessary.

(b) The Legislature finds that the industrial loan industry in Hawaii is a significant component of the State's economy and that the stability of the industrial loan industry in Hawaii is in the public interest. Like banks and savings and loan associations, industrial loan companies receive substantial public monies and put these funds to work by making loans. In Hawaii in recent years these companies have experienced explosive growth. Their share of the total market for the consumer's savings dollar is substantially higher than it is in other states. As of June 1976, public investments in industrial loan companies amounted to \$450,285,853 or 13 percent of total savings in all financial institutions in the State.

The Legislature further finds that the industrial loan industry is presently experiencing difficulties brought about at least in part by economic circumstances beyond the control of the management of these companies. The sharp decline in Hawaii's real estate and construction industries from the boom conditions of the late 1960s and early 1970s has adversely affected many companies which heavily engaged in real estate development and second mortgage lending.

In addition, the Legislature finds that until the enactment of Act 103, Session Laws of Hawaii 1976, there was a lack of regulatory controls essential to the long-range protection of investors during changed economic conditions. That Act instituted such controls by (1) increasing the cash or security reserve; (2) placing limits on affiliate (insider) transactions; (3) placing limits on loans and investments involving single obligors; (4) requiring collateral for certain loans; and (5) placing management under increased responsibility to protect investor interests. That Act, however, cannot immediately resolve the industry's difficulties. This is because such difficulties stem from loan transactions entered into over a period of years in different economic circumstances. Such transactions obviously cannot be legislatively reversed. Although in the long run Act 103 will result in a strengthened and improved industrial loan industry, other measures are necessary to protect investor interests and enable the industry to adjust to changed economic conditions.

The Legislature further finds that two receivership proceedings and the necessity of a recent bank acquisition of a large industrial loan company have undermined consumer confidence in this industry. The Legislature finds that it is

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essential and in the public interest that consumer confidence in the industry be strengthened and improved. An overall loss of confidence in the industry would result in needless investor loss and disruption of the State's economy. With such confidence the industry can take steps to minimize or avoid further investor loss and to resolve its current problems.

(c) The purpose of this Act is to establish an insurance guaranty program to protect public investors in industrial loan companies. The insurance program will be funded by the industrial loan industry itself through a non-profit corporation to be known as the Thrift Guaranty Corporation of Hawaii. This measure should strengthen public confidence in an industry which is a vital segment of Hawaii's financial community. In order to stabilize the industry, it is in the public interest for the State to assist the industry in adjusting to changed economic conditions and to help prevent a widespread loss of consumer confidence with its attendant disruption of the State's economy, and in the furtherance of such public interest, the director of finance should be authorized to issue general obligation bonds, the proceeds of which can be used to make loans to the Thrift Guaranty Corporation where necessary to enable it to avoid investor loss or to make payments to investors. The issuance of general obligation bonds for such purpose is found and determined to be a public purpose. Such loans shall be repaid with interest over a twenty-year period.

(d) Pursuant to Article VI, Section 5, of the Constitution of the State of Hawaii, the Governor has recommended immediate passage of this appropriation.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding thereto a new chapter to read:

**"Sec. 408A-1 Title.** This chapter shall be known as the Industrial Loan Company Guaranty Act.

**Sec. 408A-2 Purpose and policy.** (a) The purpose of this chapter is to assist in stabilizing the industrial loan industry by providing for a guarantee payment of the obligations of members up to \$10,000 for each thrift account, subject to the express limitations of this chapter.

(b) Because of the increased use of industrial loan companies by the people within this State, it is hereby declared to be in the best interest of the public and the policy of the State to provide for the guarantee of thrift accounts in these institutions.

**Sec. 408A-3 Definitions.** As used in this chapter unless the context otherwise requires:

(a) "Bank examiner" means the bank examiner as provided in section 401-1.

(b) "Guaranty corporation" means the Thrift Guaranty Corporation of Hawaii.

(c) "Member" means an industrial loan company licensed and regulated by chapter 408 which: (1) on the effective date of this Act, has outstanding thrift account obligations and is not the subject of any bankruptcy, insolvency, reorganization or receivership proceedings in either federal or State courts; or

(2) after the effective date of this Act becomes a member in accordance with section 408A-30.

(d) "Applicant" means an industrial loan company which subsequent to the effective date of this Act obtains the written approval of the bank examiner to issue thrift account obligations.

(e) "Thrift account" includes the principal invested in investment or thrift certificates (including thrift passbooks) or debentures, whether on installment bases or fully paid and however evidenced, plus unpaid interest accrued thereon; provided that "thrift account" shall not include single transactions in which the investor invests an amount of \$250,000 or more and the instrument evidencing such transaction states on its face that it is not protected by the Thrift Guaranty Corporation of Hawaii.

(f) "Independent activity" means activity other than that directed solely at increasing guarantee coverage under section 408A-9.

(g) "Board" means the board of directors of the Thrift Guaranty Corporation of Hawaii.

**Sec. 408A-4 Establishment of Guaranty Corporation.** (a) Within sixty days after the effective date of this Act, all industrial loan companies operating on the effective date of this Act which have issued and have outstanding thrift account obligations shall establish a nonprofit corporation pursuant to chapter 416, to operate under the name "THRIFT GUARANTY CORPORATION OF HAWAII". Initial administrative and organizational expenses shall be borne equally by the organizing companies. The initial by-laws and any subsequent amendments thereto shall be subject to the prior written approval of the bank examiner.

(b) Upon the establishment of the guaranty corporation, no industrial loan company licensed under and regulated by chapter 408, shall issue thrift account obligations, unless it is a member of the guaranty corporation.

**Sec. 408A-5 Voting rights of members.** Any other law to the contrary notwithstanding, any action by the members of the guaranty corporation, including the election of a board of directors, shall be taken after a vote of the members in accordance with this section. Each member company shall be entitled to one vote plus an additional vote for each \$1,000 of assessments, rounded to the nearest \$1,000, which such member shall have actually paid to the guaranty fund in accordance with section 408A-10; provided that no member shall be entitled to more votes than is represented by fifteen per cent of the aggregate assessments. For purposes of any actions taken prior to the initial assessment required by section 408A-10(1), including the initial election of the board, voting rights of members shall be calculated as if each member had paid the initial assessment required by section 408A-10(1).

**Sec. 408A-6 Board of directors; powers.** (a) The board of directors of the guaranty corporation shall consist of seven members and shall have responsibility and control over the organization, management, policies and activities of the guaranty corporation. Four votes shall be required for any action taken by the board. The board may subject to the prior written approval of the bank examiner:

## ACT 2

- (1) Investigate and inquire into the financial condition and management of any of its members, and have access to examine at reasonable hours, the offices, books, accounts, papers, records, files, safes, and vaults thereof.
- (2) Impose such reasonable restrictions and conditions on the activities and operations of its members as it finds necessary to protect the interests of the members' thrift account holders or to prevent thrift account holder loss.
- (3) Make recommendations to the bank examiner as to actions reasonably necessary to protect the interests of members' thrift account holders.
- (4) Invest amounts held in the guaranty fund in accordance with the requirements set forth in section 408-14 with respect to the investment of the cash or security reserve.
- (5) Borrow funds from the State or any other lender when necessary to effectuate the provisions of this chapter.

**Sec. 408A-7 Guaranty corporation—power to act as receiver.** (a) Whenever the bank examiner makes application pursuant to sections 401-12 or 402-5 for the appointment of a receiver of any member, he may request that the court appoint the guaranty corporation as receiver.

(b) In the event that the guaranty corporation is appointed receiver it shall have all of the powers of receivers as set forth in chapters 401 and 402.

**Sec. 408A-8 Miscellaneous powers of guaranty corporation.** (a) In order to reopen a closed member or, when the guaranty corporation has determined that a member is in danger of closing, in order to prevent such closing, the guaranty corporation, with the approval of the bank examiner, is authorized to make loans to, or purchase the assets of, or invest in, such member, upon such terms and conditions as the board with the approval of the bank examiner may prescribe.

(b) Receivers or liquidators of members shall be entitled to offer the assets of such members for sale to the guaranty corporation or as security for loans from the guaranty corporation. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such members. The guaranty corporation with the approval of the bank examiner may make loans on the security of or may purchase and liquidate or sell any part of the assets of a member which may hereafter be placed in receivership or adjudicated bankrupt, but in any case in which the guaranty corporation is acting as receiver of a member, no such loan or purchase shall be made without the approval of a court of competent jurisdiction.

(c) Whenever in the judgement of the board such action will reduce the risk of or avert a threatened loss to the guaranty corporation, or will facilitate a merger or consolidation of a member with another institution, or will facilitate the sale of the assets of an open or closed member to, and assumption of its liabilities by, another institution, the guaranty corporation may, upon such terms and conditions as it may determine, with the approval of the bank examiner, make loans secured in whole or in part by assets of an open or closed

member, which loans may be in subordination of the rights of thrift account holders and other creditors, or the guaranty corporation may purchase such assets, or the guaranty corporation may guarantee any other institution against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed member.

(d) Whenever in the judgment of the board such action will reduce the risk of or avert a threatened loss to the guaranty corporation, the board in its sole discretion may prospectively suspend the guarantee of thrift accounts in any member. The board shall upon not less than ten days notice establish an effective date of such suspension and all monies thereafter invested in thrift accounts of the member shall not be guaranteed by the guaranty corporation as provided in section 408A-9. In the event of such action the board shall direct the member to prominently post a notice of such suspension at each of its places of business within the State and to publish such notice in a newspaper of general circulation within the State at least twice prior to the effective date of the suspension. If the member fails to make publication as required by the board, the board may make such publication.

**Sec. 408A-9 Guarantee of thrift accounts.** Thrift accounts plus unpaid interest thereon accrued as of the last interest accrual date prior to the date of receivership of the property and business of a member or the date such member is declared bankrupt, whichever first occurs, shall be guaranteed by the guaranty corporation as follows:

- (a) For single ownership thrift accounts in any one institution:
  - (1) Funds owned by an individual and invested in the manner set forth in this paragraph (a) shall be added together and guaranteed up to \$10,000 in the aggregate.
  - (2) Individual accounts invested in one or more accounts in his own name shall be guaranteed up to \$10,000 in the aggregate.
  - (3) Funds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and guaranteed up to \$10,000 in the aggregate.
  - (4) Accounts held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under the "Hawaii Uniform Gifts to Minors Act" and invested in one or more accounts in the name of the guardian, custodian, or conservator shall be added to any individual account of the ward or minor and guaranteed up to \$10,000 in the aggregate.
- (b) For testamentary accounts in any one institution:
  - (1) Funds owned by an individual and invested in a revocable trust account, or tentative trust account, payable-on-death account, or similar account evidencing an intention that on his death the funds shall belong to his spouse, child, or grandchild shall be guaranteed up to \$10,000 in the aggregate as to each such named beneficiary, separately from any other account of the owner.
  - (2) If the named beneficiary of such an account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added

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to any individual account of such owner and guaranteed up to \$10,000 in the aggregate.

(c) For accounts in any one institution held by executors or administrators being funds of a decedent held in the name of the decedent or in the name of the executor or administrator of his estate and invested in one or more accounts shall be guaranteed up to \$10,000 in the aggregate, separately from the individual accounts of the beneficiaries of the estate or of the executor or administrator.

(d) For corporation or partnership accounts in any one institution, being accounts of a corporation or partnership engaged in any independent activity, up to \$10,000 in the aggregate. An account of a corporation or partnership engaged in an independent activity shall be deemed to be owned by the person owning such corporation or comprising such partnership and, for guarantee purposes, the interest of each person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.

(e) For unincorporated association accounts in any one institution, being accounts of an unincorporated association engaged in any independent activity up to \$10,000 in the aggregate. An account of an unincorporated association not engaged in any independent activity shall be deemed to be owned by the persons comprising such association and, for guarantee purposes, the interest of each owner in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.

(f) For joint accounts in any one institution:

(1) Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entirety, or as tenants in common, shall be guaranteed separately from account individually owned by the co-owners.

(2) A joint account shall be deemed to exist, for purposes of guarantee of accounts, only if each co-owner has personally executed an account signature card and possesses redemption rights.

(3) An account owned jointly which does not qualify as a joint account for purposes of guarantee of accounts shall be treated as owned by the named persons as individuals, and the actual ownership interest of each person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.

(4) All joint accounts owned by the same combination of individuals shall first be added together and guaranteed up to \$10,000 in the aggregate.

(5) The interest of each co-owner in all joint accounts owned by different combinations of individuals shall then be added together and guaranteed up to \$10,000 in the aggregate.

(g) For trust accounts in any one institution being all trust interests for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor) shall be added together and guaranteed up to \$10,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

**Sec. 408A-10 Guarantee fund—establishment—maintenance—assessment.** The guaranty corporation shall establish and maintain a guaranty fund as follows:

- (1) The guaranty corporation shall within ten days after the issuance of its charter levy on each of its members an initial assessment equal to one-quarter of one per cent of each member's outstanding thrift account obligations as shown on the most recent reports required by section 408-21. One year after the initial assessment, the guaranty corporation shall levy on each of its members an assessment of three-eighths of one per cent of each member's outstanding thrift account obligations. Two years after the initial assessment the guaranty corporation shall levy an assessment of one-half of one per cent of each member's outstanding thrift account obligations and a similar assessment shall be levied annually thereafter until the fund equals or exceeds two per cent of the total thrift account obligations of all members of the guaranty corporation. In the event that upon receivership of any member the amount of total funds available in the guaranty fund are insufficient to pay \$10,000 of each thrift account obligation as specified in section 408A-9, the bank examiner may make demand upon the guaranty corporation for an advance payment, as may be required to meet the deficiency, of annual assessments to become due, not to exceed two times the annual assessment. Any amount prepaid by a member as a result of such demand by the bank examiner shall be credited to the next annual assessment or assessments and each member shall at the time of the next annual assessment pay the balance otherwise due, if any, or shall be refunded any amount overpaid as a result of the advance assessment. At no time shall any member be required to be prepaid in excess of three years.
- (2) Whenever the total amount in the fund exceeds two per cent of the total of all members' thrift account obligations as shown on the most recent reports required by section 408-21, the guaranty corporation shall not levy the annual assessment; provided that any member, which at such time has not paid assessments totaling at least two per cent of its outstanding thrift account obligations, shall continue to pay assessments in accordance with the schedule established by paragraph (1) of this section until it has paid two per cent of its outstanding thrift account obligations.
- (3) The guaranty corporation may assess members at any time during any calendar year in which the fund has been reduced by a demand of the bank examiner if the aggregate assessments during the year do not exceed the amount provided in paragraph (1) above.

**Sec. 408A-11 Notice of assessment—payment.** The guaranty corporation shall send a written notice of assessment to each member assessed within five days after the levy of any assessment. Amounts assessed shall be paid to the guaranty corporation by each member assessed not later than sixty days following written notice of assessment.

**Sec. 408A-12 Report of levy.** A report of each levy of assessment shall be made to the bank examiner within five days after the levy.

**Sec. 408A-13 Default in payment of assessment.** In the event any member fails to pay the initial or any subsequent assessment when due, the guaranty corporation shall report such default in writing to the bank examiner no later than two days after such default, may suspend insurance as provided in section 408A-8(d), and may bring a civil action in circuit court to enforce payment. If the guaranty corporation does not bring such action within a reasonable time, the bank examiner may take such actions as he deems appropriate to enforce payment. Such actions may include bringing a civil action against the member in default.

**Sec. 408A-14 Payments for members in receivership.** (a) When a member has been adjudicated bankrupt or has been or is in receivership, the bank examiner shall either:

- (1) Direct the guaranty corporation to forthwith pay to each thrift account holder of the member up to \$10,000 as specified in section 408A-9; or
- (2) Withhold any direction to the guaranty corporation until it has been determined that the proceeds of the receivership are insufficient to pay up to \$10,000 of each thrift account obligation as specified in section 408A-9; upon such determination the bank examiner shall direct the guaranty corporation to pay each such deficiency.

(b) The guaranty corporation shall comply with any demand for payment made by the bank examiner pursuant to section 408A-14(a) within ninety days from the date of the demand. If the total funds available from the guaranty corporation at the time demand for payment is made are insufficient to pay in full the amounts provided by section 408A-9, the amount paid to each thrift account holder shall be ratably reduced in proportion to the amount by which the fund is deficient, and thereafter further payments shall be made ratably to each thrift account holder in accordance with the directions of the bank examiner as additional funds are paid into the guaranty fund. When thrift account obligations are paid, each member's account shall be reduced ratably based on its account balance prior to the payment.

(c) Whenever the guaranty corporation makes payments in accordance with section 408A-14(a), it shall be subrogated to all rights of the thrift account holder up to the amount of its payment, and shall be entitled to repayment in full from the estate of the member prior to any distribution to the thrift account holder to whom it has made payment.

**Sec. 408A-15 Bank examiner's authority to take possession of guaranty corporation—grounds.** Whenever it appears to the bank examiner that the guaranty corporation has violated its articles of incorporation or any law of this State, has not paid amounts as directed by the bank examiner pursuant to section 408A-14, has invested its funds in violation of section 408A-6, has not levied assessments as required by sections 408A-10 and 408A-11, has not taken action to enforce payment as required by section 408A-13, has violated any section of this chapter, or has neglected or refused to submit its books, papers, and affairs for the inspection of the bank examiner, the bank examiner may

order the guaranty corporation to cease and desist from committing any such violations and, failing compliance with such order, may forthwith take possession of the property and business of the guaranty corporation and retain possession until the guaranty corporation satisfies the bank examiner that it will operate in conformity with this chapter. During the time the bank examiner has such possession, he shall perform the duties and carry out the obligations of the guaranty corporation.

**Sec. 408A-16 Action to enjoin taking—hearing—order.** Whenever the bank examiner has taken possession of the property and business of the guaranty corporation, the guaranty corporation, if it deems itself aggrieved thereby, may apply to the circuit court of the first circuit to enjoin further proceedings. The court, after citing the bank examiner to show cause why further proceedings should not be enjoined, and after a hearing and a determination of the facts upon the merits, may dismiss such application, enjoin the bank examiner from further proceedings and direct him to surrender the property and business to the guaranty corporation, or make such further order as may be just.

**Sec. 408A-17 Appeal—stay of judgment.** An appeal may be taken from the judgment of the circuit court by the bank examiner or by the guaranty corporation in the manner provided by law for appeals from the judgment of a circuit court. An appeal from the judgment of the circuit court shall not operate as a stay of the judgment unless the court, for good cause, so orders.

**Sec. 408A-18 Reports by guaranty corporation—financial condition of member—liability for statements.** The guaranty corporation shall have authority to submit reports and make recommendations to the bank examiner regarding the financial condition of any member, and the bank examiner shall have authority to order the member to take action to implement such recommendations. Such reports and recommendations shall not be public documents. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the guaranty corporation or its directors, officers, employees, or agents or the bank examiner or his authorized representatives for any statement made by them in reports, recommendations or orders made hereunder.

**Sec. 408A-19 Disposition of income from investments.** Income from investments shall be recorded in an income account and be used to defray expenses of administration. Income from investments that exceeds an amount determined by the board of directors to be adequate to provide for current expenses may be credited to members' accounts. Each member's account shall receive credit ratably, based on the account balance, for the amount of the excess. Income received by the guaranty corporation, whether or not credited to members' accounts, shall be subject to a demand of the bank examiner made pursuant to section 408A-14, except as to a reasonable portion reserved by the board for expenses of administration during the calendar year.

**Sec. 408A-20 Payment of expenses of administration.** Expenses of administration that exceed income from investments at year-end shall be charged to members' accounts. Each member's account shall be charged ratably

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based on the account balance for the amount of the excess.

**Sec. 408A-21 Board not to divulge information.** No member of the board shall divulge any information acquired from the bank examiner pursuant to section 408-27 except insofar as the same may be rendered necessary by this chapter or by any other law or under order of the court in any civil or criminal proceeding.

**Sec. 408A-22 Notice to guaranty corporation by bank examiner of receivership of member.** The bank examiner shall give prompt notice to the guaranty corporation when he applies for receivership of the property and business of a member.

**Sec. 408A-23 Non-transferability of membership.** Memberships issued by the guaranty corporation shall be non-transferable.

**Sec. 408A-24 Regulation, investigation or examination of guaranty corporation by bank examiner.** The operation of the guaranty corporation shall at all times be subject to the regulation of the bank examiner. The bank examiner may at any time investigate the affairs and examine the books, accounts, records, and files used by the guaranty corporation. The bank examiner shall have free access to the offices, books, accounts, papers, records, files, safes, and vaults of the guaranty corporation.

**Sec. 408A-25 Appeal to bank examiner by aggrieved member.** Any member aggrieved by any action or decision of the guaranty corporation may appeal to the bank examiner within thirty days after the action or decision.

**Sec. 408A-26 Advertisement by guaranty corporation—approval.** The guaranty corporation shall not advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner, any statement or representation with regard to its plan of operation without first obtaining the written approval of the bank examiner.

**Sec. 408A-27 Advertisements by members.** All advertising by any member with regard to its membership in the guaranty corporation shall include the following statement: "Thrift accounts protected up to \$10,000 by the Thrift Guaranty Corporation of Hawaii, which is not an agency or instrumentality of the State of Hawaii or of the federal government."

**Sec. 408A-28 Limitation on interest paid thrift account holders.** (a) No member shall pay interest on thrift accounts at a rate in excess of one and one-quarter per cent more than the rate of interest permitted under applicable federal laws and regulations to be paid by savings and loan associations regulated under chapter 407; provided that the limitation of this section shall not apply to thrift accounts the face amount of which is \$50,000 or more.

(b) The bank examiner may, without regard to chapter 91, increase or decrease the interest rate established by section 408A-28(a) whenever he determines that such action is in the public interest and is reasonably necessary to preserve stability among financial institutions so as to protect public investors and depositors.

(c) The limitation on interest established by section 408A-28(a) shall be effective on January 1, 1978; provided that the bank examiner may by rule prescribe an earlier effective date or may prior to such effective date limit the interest rate paid by any member on its thrift accounts to a rate not less than the rate permitted by section 408A-28(a). No member may after the effective date of this Act increase the rate of interest paid on its thrift accounts to a rate which exceeds that permitted by section 408A-28(a).

**Sec. 408A-29 Premiums; limitation.** (a) Premiums, whether in the form of merchandise, credit or cash, given to thrift account holders by members shall be considered interest for purposes of the limitation on interest set forth in section 408A-28(a).

(b) A member may give a thrift account holder a premium which shall not be considered interest for purposes of section 408A-28(a) if: (1) the premium is given to a thrift account holder only at the time of purchase of a thrift account with an original term not exceeding one year; (2) the premium is not given to any thrift account holder on a recurring basis; and (3) the value of the premium or, in the case of articles of merchandise, the wholesale cost (excluding shipping and packaging costs), does not exceed \$10, except that the value or wholesale cost may not be more than \$15 if the face amount of the thrift account is \$5,000 or more.

**Sec. 408A-30 Applicant—initiation fee.** Each applicant of the guaranty corporation shall pay to the corporation a fee of \$15,000 which may be applied as a credit to any assessment levied by the guaranty corporation. Upon payment of the \$15,000, the applicant shall thereafter be considered a member of the guaranty corporation.

**Sec. 408A-31 List of companies having outstanding savings account obligations.** In order to permit the guaranty corporation to fulfill its obligations under this chapter, the bank examiner shall furnish it with a list of all industrial loan companies which have outstanding thrift account obligations."

SECTION 3. Section 408-27, Hawaii Revised Statutes, is amended to read:

**Sec. 408-27 Not to divulge information.** The director or regulatory agencies, bank examiner, or his assistants, or any other person appointed by the bank examiner as provided by this chapter, shall not divulge any information acquired by them in the discharge of their duties, except insofar as the same may be rendered necessary by this chapter or any other law or under order of court in the action involving the bank examiner or in any criminal action or proceeding; provided that any such information may be furnished to the board of directors of the Thrift Guaranty Corporation of Hawaii in response to a written request by the board."

SECTION 4. There is hereby authorized to be issued general obligation bonds of the State in a principal amount not to exceed \$20,000,000 and, when requested by the director of regulatory agencies, the director of finance may issue such general obligation bonds as provided by law, the proceeds of which may be used to make loans to the Thrift Guaranty Corporation of Hawaii. Any such loan to said Guaranty Corporation shall be repaid over a term not to exceed

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twenty years and shall be in such amounts as are necessary to enable Guaranty Corporation to guarantee the thrift account obligations of its members or otherwise prevent or avoid loss to thrift account holders of a member in accordance with chapter 408A; provided that no loan shall be made to Guaranty Corporation which exceeds the difference between \$20,000,000 and the balance of the guaranty fund at the time the loan is made. The terms and conditions of any such loan to Guaranty Corporation shall be subject to the prior approval of the Governor. Pending the receipt of funds from the issuance and sale of general obligation bonds, the amount required for any such loan shall be advanced from the general fund of the State. Upon the receipt of the proceeds of the general obligation bonds funds, the general fund shall be reimbursed. Prior to the issuance and sale of the general obligation bonds, interest on any loan made to said Guaranty Corporation shall be computed at one per cent more, rounded to the nearest one-eighth of one per cent, than that paid by the State on general obligation bonds most recently issued by it or on any other interim borrowings whichever is higher. After the issuance and sale of the general obligation bonds, interest on any such loan shall be computed at one per cent more, rounded to the nearest one-eighth of one per cent, than that paid by the State for the general obligation bonds. The issuance of general obligation bonds pursuant to the authorization of this Act and for purposes of making loans to the Thrift Guaranty Corporation of Hawaii is hereby found and determined to be for a public purpose.

The bond authorization set forth in this section to the extent uncommitted shall expire five years after the effective date of this Act or when the balance of the guaranty fund established by chapter 408A reaches two per cent of the total outstanding thrift account obligations of all members of the guaranty corporation, whichever occurs first.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 (4) to be expended by the Department of Regulatory Agencies for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved April 1, 1977.)

## ACT 3

S.B. NO. 159

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-52, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

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\*Edited accordingly.

“(c) Disposition. Remnants or portions thereof may be disposed of by the board of land and natural resources without recourse to public auction in the manner set forth herein. Any remnant or portion thereof to be disposed of shall be first offered for sale to the abutting owner for a reasonable period of time at a reasonable price based on appraised value. In the event that one abutting landowner lacks access to a street, and such access can be secured by disposition of the remnant, such remnant shall be first offered for sale to such abutting owner, or subdivided so as to protect the access of all abutting landowners. If there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting a sealed bid containing the highest offer above the appraised value. If the remnant abuts more than one parcel, the board may subdivide the remnant so that a portion thereof may be sold to each abutting owner at the appraised value; provided that no remnant shall be sold to any abutting owner unless the remnant, when combined or consolidated with the abutting property, shall constitute a lot acceptable to the appropriate agency of the county in which the remnant lies; and provided, further, that appropriate language shall be included in any document of conveyance of such remnant to assure use of the remnant in accordance with the applicable ordinances, rules, and regulations of the county concerned.”

SECTION 2. Statutory material† to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved April 19, 1977.)

ACT 4

S.B. NO. 982

A Bill for an Act to Amend Chapter 46, Hawaii Revised Statutes, Relating to Governmental Provisions Common to All Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 46, Hawaii Revised Statutes, is hereby amended by adding a new section thereto, to be appropriately numbered and to read as follows:

**“Section 46- Purchasing.** The director of finance of each County that does not have any centralized purchasing provision in its Charter, may adopt rules and regulations governing the procurement and purchase of materials, supplies, equipment, and services, subject to the requirements of Chapter 103, Hawaii Revised Statutes.”

SECTION 2. This Act shall take effect upon its approval.

(Approved April 19, 1977.)

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† “Statutory material” substituted for “New statutory”.

\*Edited accordingly.

A Bill for an Act Relating to Cultural History.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this act is to insure that the State Foundation for History and the Humanities is able to perform its function as the coordinator of historical information gathering. This act provides that the Foundation will receive regular reports from all agencies which receive State funds for certain multicultural program projects.

SECTION 2. Chapter 6, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"Sec. 6- Reports to the Hawaii Foundation for History and the Humanities.** Any organization, group, state agency or political subdivision of the state or any of its agencies, or any individual who receives state funds in order to conduct any work described within section 6-16.6(1) shall submit a report, not less than annually, to the Hawaii foundation for history and the humanities, in such form and containing such information as the foundation may require."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 19, 1977.)

A Bill for an Act Relating to the Hawaii Insurance Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-521, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-521 Payment of benefits.** (a) The benefits payable under any policy or contract of group of blanket disability insurance shall be payable to the insured member of the group or to the beneficiary designated by him, other than the policyholder, employer, or the association or any officer thereof as such, subject to provisions of the policy in the event the claimant is insane or otherwise incompetent, or in the event there is no designated beneficiary as to all or any part of any sum payable at the death of the individual insured; provided, that if the entire cost of the insurance has been borne by the employer such benefits may be made payable to the employer.

(b) Any group or blanket disability policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services, but the policy may not

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\*Edited accordingly.

require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount so paid.

(c) No group disability income policy shall contain any provision integrating the benefits of the policy with social security benefits whereby the amount of the disability benefit actually being paid to the disabled person under the terms and conditions of the policy will be diminished when there occurs an increase in social security benefits either by operation of amendments to the Social Security Act or by cost of living adjustments which become effective after the first day the disabled person becomes entitled to benefits."

SECTION 2: New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect January 1, 1978.

(Approved May 3, 1977.)

## ACT 7

S.B. NO. 147

A Bill for an Act Relating to Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 269-28, Hawaii Revised Statutes, is amended to read:

"Sec. 269-28 Penalty. (a) Any public utility violating or neglecting or failing in any particular to conform to or comply with this chapter or any lawful order of the public utilities commission shall be subject to a civil penalty not to exceed \$1,000 for each such violation, neglect, or failure, to be assessed by the commission after a hearing in accordance with chapter 91. The commission may order the public utility to cease carrying on its business while the violation, neglect, or failure continues.

(b) Notwithstanding the provisions of subsection (a) of this section, any public utility violating or neglecting or failing in any particular to conform to or comply with any rule, regulation, or order of the commission setting forth safety requirements applicable to the transmission of gas shall be subject to a civil penalty not to exceed \$1,000 for each day that such violation, neglect or failure continues; provided that the maximum penalty for related violations arising out of the same act, omission or occurrence shall not exceed \$200,000.

(c) Upon written application filed within fifteen days after service of an order imposing a civil penalty pursuant to this section, the commission may remit or mitigate such penalty upon such terms as it deems proper.

(d) If any civil penalty imposed pursuant to this section is not paid within such period as the commission may direct, the attorney general shall institute a civil action for recovery of same in circuit court."

SECTION 2. Statutory material to be repealed is bracketed. New material

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\*Edited accordingly.

## ACT 8

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

## ACT 8

S.B. NO. 243

A Bill for an Act Relating to Basic Rule.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-101, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-101 Basic Rule.** No person shall drive a vehicle at a speed greater than is reasonable and prudent and having regard to the actual and potential hazards and conditions then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic, or by reason of weather or highway conditions."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall be effective upon approval.

(Approved May 3, 1977.)

## ACT 9

S.B. NO. 245

A Bill for an Act Relating to Riding on Roadways and Bicycle Paths.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-145, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-145 Riding on roadways and bicycle paths.** (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall ride in single file; provided that upon paths or parts of roadways set aside for the exclusive use of bicycles, riding two abreast shall be permitted when such path or parts of roadways are of sufficient width to allow riding two abreast unless otherwise prohibited by rule or ordinance adopted by the director of transportation or by

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\*Edited accordingly.

the counties.

(c) Whenever a usable path for bicycles has been provided adjacent to or on a roadway, bicycle riders shall use the path and shall not use that portion of the roadway intended for other vehicular traffic; provided that the counties of 100,000 people or more may, by ordinance, post certain bikeways to prevent persons riding a bicycle equipped with a motor for using them.

(d) No person shall ride a bicycle equipped with a motor on any sidewalk."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall be effective upon approval.

(Approved May 3, 1977.)

ACT 10

S.B. NO. 336

A Bill for an Act Relating to General Obligation Bonds of the Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 47-2.1, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 47-2.1 Bonds for revenue-producing undertakings.** General obligation bonds may be issued under this part for an undertaking as defined in section 49-1 or for any other undertaking for which such bonds are authorized to be issued by other provisions of general law. Such bonds may be combined into, issued and sold with other general obligation bonds of the county as a single issue of bonds. The governing body may require that the general fund of the county shall be reimbursed from the revenue of the undertaking for all of the principal of and interest on such bonds, or for such part thereof as the governing body may determine, and may further provide that such bonds shall be additionally secured by a pledge of the revenues of the undertaking, subject to the rights of the holder of any bonds then outstanding and the provisions of the ordinances or resolutions authorizing the outstanding bonds. Whenever the undertaking shall be under the management and control of a department or board of the county and such department or board has the power and authority under chapter 49 to issue revenue bonds under that chapter, (1) no bonds shall be authorized under this chapter for such undertaking by the governing body of the county unless such department or board by resolution shall have requested the issuance thereof, which resolution shall set forth the details regarding the proposed bond issue including the date, the maturity dates, interest payment dates, provisions for redemption prior to maturity, if any, and such other information as the department or board shall deem advisable; (2) the governing body may require that undertaking for all of the principal of and interest on such bonds, or for such part thereof as the governing body may determine, and that such rates, rentals,

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\*Edited accordingly.

## ACT 11

fees and charges be imposed for the use and services of the undertaking so as to produce revenue of the undertaking at least sufficient, after the costs of operation, maintenance and repair of the undertaking and the required payment into the general fund of the amounts required for such reimbursement; provided that the governing body shall not impose such requirement unless prior to the issuance of such general obligation bonds the department or board has approved the details and time of issuance and the sale of the bonds [and the interest rate or rates the bonds are to bear, which details and time shall comply with all the provisions of the resolution requesting the issuance of the proposed bond issue and the provisions of this chapter]; and (3) no pledge of the revenues of the undertaking shall be made to the payment and security of the bonds unless consented to by the department or board, and if so required by chapter 49, or by charter or by the provisions of the resolutions securing the revenue bonds issued for the undertaking, such pledge may be made by the department or board in the resolution requesting the issuance of the proposed bond issue."

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

## ACT 11

S.B. NO. 346

A Bill for an Act Relating to Family Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) In cases of violation of a law or ordinance by a child, the issuance of a citation or summons, when provided for by law or ordinance, shall be sufficient to invoke the jurisdiction of the court, which may proceed to dispose of such a case with or without preliminary investigation and the filing of a petition."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

## ACT 12

S.B. NO. 391

A Bill for an Act Relating to Planning and Economic Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

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\*Edited accordingly.

**“Sec. 201-3 Specific research and promotional functions of the department.** Without prejudice to its general functions and duties the department of planning and economic development shall have specific functions in the following areas:

- (1) **Agricultural development.** The department shall (i) conduct surveys and feasibility studies to determine the need for and value of additional research in the production of agricultural commodities, and the processing and marketing of agricultural food products; (ii) promote an informational program directed to the consuming public both in Hawaii and in the mainland United States relative to the qualities of agricultural commodities produced in Hawaii and the maximum utilization of same, including processed agricultural food products; and (iii) make grants to and contracts with appropriate agencies, firms, or individuals for surveys, studies, research, and promotion.
- (2) **Industrial development.** The department shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best method of packaging, transporting, and marketing the State's industrial products; disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State; assist associations of producers and distributors of industrial products to introduce such products to consumers; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (3) **Land development.** The department shall encourage the most productive use of all land in the State in accordance with a general plan developed by the department; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (4) **Credit development.** The department shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (5) **Promotion.** The department shall disseminate information developed for or by the department pertaining to economic development to assist

present industry in the State, attract new industry and investments to the State, and assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products. The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and such other promotional and publicity devices as may be appropriate."

SECTION 2. Section 201-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 201-4 Contracts.** The department of planning and economic development may contract with qualified private and public agencies, associations, firms, or individuals within or without the State in pursuance of its duties and functions; provided that preference shall be given to contractors within the State; provided further that preference shall be given to qualified parties who agree to match department funds in whole or in part with funds, equipment, materials, or services; provided further that funds to assist associations of producers, processors, or distributors of agricultural or industrial products to introduce products which are new or inadequately known to consumers shall be matched by funds equal to at least forty per cent of the funds contracted for by the department or expenses incurred by it in behalf of the associations; provided further that in instances where the promotion program will benefit one or more of the commodity groups as a whole or where a new or fragile commodity association or industry has the potential for growth but is unable to contribute its full matching share, the department may waive matching fund requirements for the first three years of any contract, but shall require twenty per cent matching funds for the fourth year of any such contract, and forty per cent matching funds for the fifth and all subsequent years of any such contract.

The contracts shall be approved in writing by the department and shall specify the name of the contractor, the nature of the work to be performed, the manner in which funds may be expended, and such data as the state comptroller may require. The allocation of any such contract shall be presented to the state director of finance and expended by the state comptroller upon vouchers issued by the contractor and approved by the director of the department. No such contract shall be entered into by the department until all interested and qualified persons registered to do business in the State have been given a reasonable opportunity to submit their proposal of the manner in which the contract is to be performed and the results which can be achieved within the limit of the funds available, together with their qualifications to do the work.

When necessary to effectuate the purposes of this part, funds to state agencies may authorize expenditures for the purchase of machinery and equipment and the erection and conversion of structures, laboratories, and buildings within the State, which facilities shall be and remain under the jurisdiction of the agencies. Private agencies, associations, firms, or individuals shall provide all structures and equipment necessary to effectuate the purposes of funds made to them, in which cases the value which may be attributed to the use

of the facilities shall be considered as matching funds. The department shall retain under its own jurisdiction only such furniture, office equipment, and other equipment as is necessary for administration purposes."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

ACT 13

S.B. NO. 484

A Bill for an Act Relating to Vehicle Equipment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-83, Hawaii Revised Statutes is amended to read:

**"Sec. 286-83 Sales of motor vehicle equipment; approval and identification required; prohibitions on use.** (a) On and after January 1, 1972, no person shall display for sale, sell or offer for sale for use in or upon, or as part of the equipment of a motor vehicle, trailer, semi-trailer, or pole trailer any head lamp, auxiliary or fog lamp, rear lamp, signal lamps, or reflector, which reflector is required by law, or any glazing material, hydraulic brake fluid, seat belt, shoulder harness or seat belt and shoulder harness assembly unless the device is of a type which has been submitted to the highway safety coordinator and approved by him. This subsection shall not apply to equipment in actual use on May 25, 1971, or replacement parts therefor.

(b) No person shall display for sale, sell or offer for sale for use in, upon, or as part of the equipment of a motor vehicle, trailer, semi-trailer, or pole trailer any device mentioned in this section unless the device bears thereon or, where applicable, upon the container in which it is sold, the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use in or upon a motor vehicle, trailer, semi-trailer, or pole trailer any device mentioned in this section unless the device has been submitted to and approved by the highway safety coordinator, or exempted by subsection (a)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Ethnic Studies.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to eliminate the possibilities for duplication of efforts by agencies within state government. The State Foundation on History and the Humanities has and should have the central role in collection of ethnic materials. The Ethnic Studies program within the Governor's Office creates the possibility for overlapping of functions and should therefore be abolished.

**SECTION 2.** Chapter 9C of the Hawaii Revised Statutes is hereby repealed.

**SECTION 3.** This Act shall take effect upon approval.

(Approved May 3, 1977.)

A Bill for an Act Relating to Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 269- Annual financial reports.** All annual financial reports required to be filed with the commission by public utilities shall include a certification that such report conforms with the applicable uniform system of accounts adopted by the commission."

**SECTION 2.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

**SECTION 3.** This Act shall take effect on January 1, 1978.

(Approved May 3, 1977.)

A Bill for an Act Relating to Unfair and Deceptive Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 481B-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 481B-5 Refunds.** (a) Any person engaged in the business of offering goods for sale at retail who accepts the return of goods, which goods were paid for at the time of purchase by cash, check, credit card, or by charging the purchase price to a credit account administered by the person making the sale,

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\*Edited accordingly.

shall refund the full amount of the payment, including any ancillary charges or taxes incident to the purchase returned, in the following manner:

- (1) If payment was made in cash, in cash at the time of the return of goods;
- (2) If payment was made by check, in cash at the time of the return of goods; provided that if the check has not cleared the bank on which it is drawn, the refund may be delayed until the check has cleared;
- (3) If payment was made by credit card, by credit to the purchaser's credit card account;
- (4) If payment was made by charging a credit account administered by the person making the sale, by credit to the purchaser's credit account; provided that before making the refund, the person accepting the return of goods may require proof of purchase at his place of business by sales slips, receipts, or other evidence of purchase of the goods returned.

(b) Any person engaged in the business of offering goods for sale at retail who accepts the return of goods but limits the period during which goods may be returned to less than sixty days after the date of purchase or delivery shall post conspicuous signs in his place of business bearing the words "No refund after (insert number of days) days from date of (insert "purchase" or "delivery", as appropriate)", or words or phrases of similar import to inform customers of the limitation of the period during which the return of goods will be accepted.

(c) Any person engaged in the business of offering goods for sale at retail who excludes a certain category or type of goods from the refund policy shall post conspicuous signs in his place of business identifying that type of goods, bearing the words 'No refunds on (insert type description) goods.' or words or phrases of similar import to advise customers of the exclusion policy.

(d) Any person engaged in the business of offering goods for sale at retail who does not accept the return of goods shall post conspicuous signs in his place of business bearing the words "All sales final", or "No refunds", or words or phrases of similar import to inform customers that no return of goods will be accepted.

(e) Signs required in subsections (b), (c) and (d) shall be posted in the selling areas of the business in locations reasonably calculated to bring the signs to the attention of customers.

(f) Any violation of the foregoing subsections shall constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce under section 480-2.

(g) This section shall not apply to goods which are damaged after sale, of a type which are unsuitable for resale after any use, or which have been retained by the purchaser in excess of sixty days after purchase."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECITON 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Land Exchanges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-50, Hawaii Revised Statutes is amended by amending subsection (c) to read as follows:

"(c) Legislative disapproval. Any exchange of public land for private land shall be subject to disapproval by the legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both in any regular or special session next following the date of exchange. The department shall submit for introduction to the legislature a resolution for review of action on any exchange twenty days prior to the start of any regular or special session. The resolution shall contain a list of all exchanges consummated by the board of land and natural resources wherein exchange deeds have been executed by the parties together with the following information: (1) the location and area of the parcels of land to be exchanged; (2) the value of the lands to be conveyed by the State and the private party; (3) the name or names of the appraiser or appraisers; and (4) the date of the appraisal, which shall not be more than six months prior to the date of final approval of the exchange by the board of land and natural resources."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

A Bill for an Act Relating to Unlicensed Acts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 487-13, Hawaii Revised Statutes, is amended to read:

"**Sec. 487-13 Penalties for unlicensed acts.** (a) Any person who furnishes commodities or services for which a license is required from the department of regulatory agencies or any board or commission thereunder without having such license is engaged in an unlawful act or practice and shall be subject to the penalty provided in (b).

(b) Any person who engages in an unlawful act or practice as provided in (a) shall be fined by a sum not less than \$500 nor more than \$2,500 for each unlawful act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection.

(c) Any contract for the furnishing of commodities or services by an unlicensed person shall be void and shall prevent such person from recovering

\*Edited accordingly.

the contract price or the reasonable value thereof."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

ACT 19

H.B. NO. 170

A Bill for an Act Relating to the Commission on Manpower and Full Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 202-1, Hawaii Revised Statutes, is amended to read:

"**Sec. 202-1 Commission; appointment; tenure.** The State manpower advisory committee established by the governor, July, 1963, is hereby constituted as the advisory commission on manpower and full employment. The commissioners shall be appointed as provided for in section 26-34. The governor shall appoint the chairman of the commission. The commission shall be composed of twenty members. The members shall be selected on the basis of their interest in and knowledge of the interrelations amongst the technological, economic, and social systems and on the basis of their ability to contribute to solution of difficulties arising from the new techniques and the proliferation of manpower problems including the problems of the hard to employ. The members of the advisory commission shall represent labor, management, agriculture, education, training, and the public in general. The commission shall also fulfill the advisory functions specified by federal laws relating to vocational education and shall be constituted so it shall comply in all respects with the membership provisions for the State advisory council on vocational education required by the Federal Vocational Act of 1963, as amended by P.L. 90-576 and as it may be further amended from time to time. The members shall serve without compensation but shall be paid per diem and travel expenses when attending meetings of the commission."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

ACT 20

H.B. NO. 178

A Bill for an Act Relating to Exports of Flowers and Foliage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 147-31, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

**"Sec. 147-31 Definitions.** For the purposes of this part, unless otherwise required by the context:

**"Department"** means the department of agriculture;

**"Commercial exporter"** means any person who exports or causes to be exported from the State of Hawaii: (1) any fresh or processed flowers or foliage to a wholesaler or retailer for sale or resale or for distribution for commercial or promotional purposes, or (2) any fresh or processed flowers or foliage as a gift for subsequent sale or resale.

**"Export"** means shipment to any point outside the State;

**"Person"** means any individual, firm, corporation, partnership, or association;

**"Container"** means package used for the export shipment;

**"Packing material"** means anything used in packaging flowers or foliage for shipment other than the container;

**"Method of packaging"** means the manner in which flowers are placed in the container and procedures used to insure retention of desirable qualities in the flowers and foliage;

**"Flowers and foliage"** means cut flowers [and], foliage, and [does not include] plants with roots attached."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon approval.

(Approved May 3, 1977.)

ACT 21

H.B. NO. 187

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 87-13 Term of a trustee, vacancy.** Except for the director of finance, the term of office of each trustee shall be four years. The director of finance shall serve during his term of office as director of finance.

A vacancy on the board of trustees shall be filled by appointment of the governor. The person appointed to fill a vacancy shall serve for the remainder of the term of his predecessor.

If by the end of his term a trustee is not reappointed or his successor is not appointed, he shall serve until his successor is appointed."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval and shall apply to all incumbent trustees.

(Approved May 3, 1977.)

\*Edited accordingly.

ACT 22

H.B. NO. 1060

A Bill for an Act Relating to Farm Loans and Amending Chapter 155, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The title of Chapter 155, Hawaii Revised Statutes, is hereby amended to read "Agricultural Loans".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

ACT 23

S.B. NO. 348

A Bill for an Act Relating to the Hawaii Motor Vehicle Safety Responsibility Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to amend the Motor Vehicle Safety Responsibility Act to:

- (1) Increase the property damage threshold in accident cases from \$100 to \$300 to coincide with the State Traffic Code threshold on damages and keep pace with repair costs.
- (2) Eliminate the 60 day period required for Administrators to process accident reports because the timetable is unrealistic. Often the investigation of accident cases takes longer than 60 days.

SECTION 2. Section 287-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 287-4 Report required following accident.** The driver of every motor vehicle which is in any manner involved in an accident within this State in which any person is killed or injured or in which damage to the property of any one person, including himself, to an apparent extent in excess of \$300 is sustained shall at the earliest practical time, and in any event within twenty-four hours after the accident, report the matter in writing or in person to the chief of police. The report, the form of which shall be prescribed by the chief of police, shall contain information to enable the chief of police to determine whether the requirements for the deposit of security under sections 287-5 and 287-6 are inapplicable by reason of the existence of insurance or other exceptions specified in this chapter. If the driver is physically incapable of making the report any other occupant in the vehicle at the time of the accident capable of making the report shall make or cause to be made the report not made by the driver, and the registered owner of the motor vehicle involved in the accident shall, unless the report is filed, within ten days after learning of the accident make the report. The driver, occupant, and registered owner shall furnish such additional relevant information as the chief of police shall require. If the reports required hereunder are made pursuant to any ordinance or other provision or requirement of law, no additional report, except as specifically provided herein, shall be required hereby."

## ACT 23

SECTION 3. Section 287-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 287-5 Security required unless evidence of insurance.** If twenty days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to property of any one person in excess of \$300, the chief of police does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under section 287-6 has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the chief of police shall determine the amount of security which is sufficient in his judgment to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against each driver or owner. This section shall be applicable to each driver or owner notwithstanding that the chief of police determines that the amount of security required hereunder shall as to any such driver or owner be less than \$300."

SECTION 4. Section 287-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 287-6 Suspension of license.** The chief of police shall suspend the license or permit of each driver and the license of the registered owner of the motor vehicle in any manner involved in the accident and if the driver is a nonresident, any privilege of operating the motor vehicle within the State shall cease, and if the owner of the motor vehicle is a nonresident, the privilege of the use within the State of any motor vehicle owned by him shall also cease, unless the driver or owner or both have satisfied the requirements of section 287-5 or have deposited security in the sum determined by the chief of police. Notice of the suspension shall be sent by the chief of police to the driver and registered owner and the nonresident owner not less than ten days prior to the effective date of the suspension and shall state the amount required as security. Where erroneous information is given the chief of police with respect to the matters set forth in subdivision (1), (2), or (3) of section 287-7, he shall take appropriate action as hereinbefore provided within sixty days after receipt by him of correct information with respect to those matters."

SECTION 5. Section 287-20, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 287-20 Proof of financial responsibility required upon conviction of certain offenses.** Whenever a driver's license has been suspended or revoked upon a conviction of any offense pursuant to law, or in the case of minors, upon being adjudicated under section 571-11 (1) and whose license is suspended or revoked, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility. Whenever by reason of a conviction of, or adjudication under section 571-11 (1) by reason of, any of the offenses

hereinafter named, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver's license but does not revoke or suspend the license, the chief of police shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Heedless, careless, reckless, or negligent driving.
- (2) Conviction or adjudication under section 271-11 (1)† by reason of any offense involving a motor vehicle in motion if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$300.

If any person, at the time of his conviction of, or adjudication under section 571-11(1) by reason of, any of the offenses hereinabove named, or of any offense for which a court of competent jurisdiction may suspend or revoke a driver's license, does not hold a valid driver's license, no such license shall at any time thereafter be issued to the person unless and until he furnishes and thereafter maintains proof of financial responsibility."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring. \*

SECTION 7. This Act shall take effect upon its approval.

(Approved May 3, 1977.)

ACT 24

S.B. NO. 122

A Bill for an Act Relating to Marriage License Issuance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 572-5, Hawaii Revised Statutes, is amended to read:

"**Sec. 572-5 Marriage license; agent to grant; fee.** (a) The department of health shall appoint, and at its pleasure remove, one or more suitable persons as agents authorized to grant marriage licenses under this chapter in each judicial circuit. Such agents may issue licenses from any state facility when deemed necessary by the director. Any agent appointed under this subsection and receiving an application for a marriage license, shall collect from the applicant for the license \$8, of which the agent except those provided for in subsection (b), shall retain \$4 for his benefit and compensation and shall remit \$4 to the director of finance of the State.

† Probably should be 571-11 (1).

\* Edited accordingly.

(b) The department may appoint as regular employees under the civil service and classification laws the number of suitable persons as agents authorized to grant marriage licenses for whom provision has been made in the general appropriation act. In the case of such agents, the full amount collected from applicants shall be remitted to the director of finance as a general realization of the State.

(c) Every agent appointed under this section may administer the oaths required by this chapter to be taken.

(d) The department or its authorized agents shall furnish to each applicant for a marriage license information, to be provided by the department, relating to population stabilization, family planning, and birth control."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

ACT 25

S.B. NO. 462

A Bill for an Act Relating to the Residents of Kalaupapa, Molokai.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Leprosy is historically probably the most dreaded disease to afflict mankind. The traditional policy was segregation and isolation from the rest of society—cast off into the mountains, or onto an island, or compulsorily confined on an isolated peninsula, so that the "unclean" lepers would not only be out of contact with the rest of society, but they would also be out of sight. As with so many other diseases, the native Hawaiian had relatively little immunity to leprosy and the disease spread rapidly, resulting in the setting aside of the isolated Kalawao (Kalaupapa) peninsula on Molokai as a leprosarium for the segregation of persons with the disease.

In recent years, leprosy patients requiring hospitalization have been housed at either Hale Mohalu or at Kalaupapa. Statistics since 1950 reveal that of all patients eligible for release from Hale Mohalu, ninety-six per cent elected to return to the community while the percentage from Kalaupapa was only five per cent. It is evident that for many patients at Kalaupapa, the Molokai Peninsula has become their true home, a land that they have come to love, inhabited by neighbors who have become good friends. Therefore, it is the purpose of this Act to establish a policy guaranteeing the residents of Kalaupapa care and services for the remainder of their lives.

SECTION 2. Chapter 326, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 326- Kalaupapa; policy on residency.** The legislature finds that Hawaii's leprosy victims have in many ways symbolized the plight of those

\*Edited accordingly.

afflicted with this disease throughout the world. Their sufferings and social deprivations helped eventually to bring the story of the disease and an understanding of its health ravages to people everywhere. Those patients who settled in Kalaupapa remain a living memorial to a long history of tragic separation, readjustment, and endurance.

It is the policy of the State that the patient residents of Kalaupapa shall be accorded adequate health care and other services for the remainder of their lives. Furthermore, it is the policy of the State that any patient resident of Kalaupapa desiring to remain at the settlement shall be permitted to do so for as long as he may choose, regardless of whether or not he has been successfully treated."

SECTION 3. Section 326-26, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 326-26 Who allowed at settlement.** No person, not having Hansen's disease, shall be allowed to visit or remain upon any land, place, or inclosure set apart by the department of health for the isolation and confinement of Hansen's disease sufferers, without the written permission of the director of health, or some officer authorized thereto by the department, under any circumstances whatever, and any person found upon such land, place, or inclosure without a written permission shall be fined not less than \$10 nor more than \$100 for such offense; provided that any patient resident of Kalaupapa desiring to remain at the settlement shall be permitted to do so for as long as he may choose, regardless of whether or not he has been successfully treated."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

ACT 26

S.B. NO. 647

A Bill for an Act Relating to Taxation of Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 239-2, Hawaii Revised Statutes, is amended by amending the definition of "gross income" to read:

"(6) "Gross income" means the gross income from public service company business as follows:

- (A) Gross income from the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil; or
- (B) Gross income from the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of

\*Edited accordingly.

intelligence by electricity, by land or water or air:

- (i) Originating and terminating within this State, or
  - (ii) By means of vessels or aircraft having their home port in the State and operating between ports or airports in the State, with respect to the transportation so effected, or
  - (iii) By means of plant or equipment located in the State, between points in the State; or
- (C) Gross income from the transportation of freight by motor carriers (other than as stated in paragraph (6)(B) of this section, or the conveyance or transmission of messages or intelligence through wires or cables located or partly located in the State (other than as stated in paragraph (6)(B) of this section).

The words “gross income” and “gross income from public service company business” shall not be construed to include dividends (as defined by chapter 235) paid by one member of an affiliated public service company group to another member of the same group; or gross income from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance or managerial services by one member of an affiliated public service company group to another member of the same group. “Affiliated public service company group” means an affiliated group of domestic corporations within the meaning of chapter 235, all of the members of which are public service companies. “Member of an affiliated public service company group” means a corporation (including the parent corporation) which is included within an affiliated public service company group.”

SECTION 2. Section 237-3, Hawaii Revised Statutes, is amended to read:

“Sec. 237-3 “Gross income”, “gross proceeds of sale”, defined. “Gross income” means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce, or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and all receipts, actual or accrued as hereinafter provided, by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees, or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes, royalties, interest, or discount paid or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless he proves to the satisfaction of the department of taxation that he is dealing on an accrual basis and his books are so kept, or unless he employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 235 for any taxable year in which event he shall report his gross income for the purposes of this chapter on the accrual basis for the same period.

“Gross proceeds of sale” means the value actually proceeding from the sale of tangible personal property without any deduction on account of the cost of property sold or expenses of any kind.

The words "gross income" and "gross proceeds of sales" shall not be construed to include: gross receipts from the sale of bonds or other evidence of indebtedness or stocks or, except as otherwise provided, from the sale of land in fee simple, improved or unimproved, dividends as defined by chapter 235; cash discounts allowed and taken on sales; the proceeds of sale of goods, wares, or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the "gross income" or "gross proceeds of sales"; gross receipts from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance, or managerial services by one "member" of an "affiliated public service company group" to another "member" of the same group as such terms are defined in section 239-2(6). Accounts found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross proceeds of sale, or gross income, within this chapter, so far as they reflect taxable sales made, or gross income earned after July 1, 1935, but shall be added to gross proceeds of sale or gross income when and if afterwards collected."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

## ACT 27

S.B. NO. 761

A Bill for an Act Relating to Serial Numbers and Identification Marks on Merchandise.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-383, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 708-838 Removal of identification marks.** A person commits the offense of removal of identification marks if (1) he defaces, erases, or otherwise alters any serial number or identification mark placed or inscribed by the manufacturer, or (2) he knowingly, to conceal the true ownership of the property of another, defaces, erases, or otherwise alters any serial number or identification mark placed or inscribed on any bicycle, movable or immovable construction tool or equipment, appliance, merchandise, or other article for the purpose of identifying the bicycle, movable or immovable tool or equipment, appliance, merchandise or other article or its component parts, with a value of more than \$50. A person removes identification marks if he attempts to or succeeds in erasing, defacing, altering, or removing a serial number or identification mark or part thereof, on the property of another.

\*Edited accordingly.

Removal of identification marks is a misdemeanor."

SECTION 2. Section 708-839, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 708-839 **Unlawful possession.** It shall be unlawful for any person to possess any bicycle, movable construction tool or equipment, appliance, merchandise, or other article, or any part thereof (1) where the serial number or identification mark placed on the same by the manufacturer for the purpose of identification, or (2) knowing the serial number or identification mark placed on the same for the purpose of identification, has been erased, altered, changed or removed for the purpose of changing the identity of the foregoing items.

Unlawful possession is a misdemeanor."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

ACT 28

S.B. NO. 799

A Bill for an Act Relating to Industrial Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 408-13, Hawaii Revised Statutes, is amended to read:

"Sec. 408-13 **Capital stock.** (a) The capital stock of any corporation, desiring to engage in the industrial loan business and to issue investment or thrift certificates or debentures to the public, shall be not less than \$300,000, which capital stock shall be fully paid to the corporation in cash. No commission, fees, brokerage, or other compensation of any kind shall be paid, either directly or indirectly, to any person, firm, or corporation for the sale of any stock of such corporation, except out of assets in excess of the minimum capital of \$300,000 required by this chapter. The amount of the capital stock shall not, at any time thereafter, be voluntarily reduced below the amount originally paid in, except as may be permitted and in the manner provided by chapter 416; provided, that the amount of the capital stock shall at all times be at least \$300,000. This provision also applies to an industrial loan company that opens an additional office or place of business after July 31, 1977.

(b) The capital stock of any corporation which desires to engage in the industrial loan business but not to issue investment or thrift certificates to the public shall be not less than \$100,000, which capital stock shall be fully paid to the corporation in cash. The amount of the capital stock of such corporation shall at all times be not less than \$100,000."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

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\*Edited accordingly.

brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

ACT 29

S.B. NO. 891

A Bill for an Act Relating to the Power of the Department of Transportation to Issue Special Facility Revenue Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 261-52, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 261-52 Powers.** In addition and supplemental to the powers granted to the department by law, the department may:

- (1) With the approval of the governor, and without public bidding, enter into a special facility lease or an amendment or supplement thereto whereby the department agrees to construct, acquire or remodel and furnish or equip a special facility solely for the use by such other person to a special facility lease.
- (2) With the approval of the governor, issue special facility revenue bonds in such principal amounts as may be necessary to yield the amount of the cost of any construction, acquisition, remodeling, furnishing, and equipping of any special facility, including the costs of acquisition of the site thereof; provided that the total principal amount of the special facility revenue bonds which may be issued pursuant to the authorization of this paragraph shall not exceed [~~\$15,000,000.~~] \$25,000,000.
- (3) Perform and carry out the terms and provisions of any special facility lease.
- (4) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct or remodel and furnish or equip any special facility, or accept the assignment of any contract therefor entered into by the other person to the special facility lease.
- (5) Construct any special facility on land owned by the State or on land or rights or interests in land acquired for that purpose.
- (6) Agree with the other person to the special facility lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the special facility and the expenditure of moneys therefor shall be undertaken or supervised by such other person. Neither such undertaking by such other person nor the acceptance by the department of a contract theretofore entered into by such other person therefor, shall be subject to the provisions of section 103-22."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

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\*Edited accordingly.

## ACT 30

brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

## ACT 30

S.B. NO. 1299

A Bill for an Act Relating to Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part II of Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 46- Civil service exemptions.** Any other provision to the contrary notwithstanding in any county charter or otherwise, all employees of any county legal department of the executive branch shall be subject to chapter 76, except for the department head, all attorneys, law clerks, private secretary to the department head and positions under sections 76-77(7), 76-77(8), 76-77(11) and 76-77(12)."

SECTION 2. All tenured employees in a legal department of the executive branch of any political subdivision of the State just prior to the effective date of this Act shall continue to perform their duties in their respective positions, continue to be subject to civil service under this Act, without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes may be made pursuant to applicable personnel laws.

All employees in a legal department of the executive branch of any political subdivision of the State who do not have tenure just prior to the effective date of this Act shall continue to perform their duties in their respective positions, made subject to civil service under this Act, and shall become civil service employees without the necessity of examination or the loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act; provided that such employees possess the minimum qualifications for their respective positions; provided further that subsequent changes may be made pursuant to applicable personnel laws.

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

## ACT 31

S.B. NO. 1367

A Bill for an Act Relating to Names.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended to read

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\*Edited accordingly.

as follows:

**"Sec. 574-5 How changed.** It shall not be lawful to change any name adopted or conferred under this chapter, except (1) upon an order of the lieutenant governor which order shall be founded upon a petition executed by the person desirous of changing his name or, in case of a minor, by the parents or by such parent who has custody of the minor, or by the guardian of the person of the minor, which petition shall be accompanied by the payment of filing costs in the amount of \$5, and shall be published once in some newspaper of general circulation in the State in such order mentioned, and the petitioner shall deposit in the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the order, the affidavit to show that the order has been published as provided herein, and to have attached thereto a clipping showing the order as published, or (2) by any court or judge of competent jurisdiction, embodying in a decree of adoption a provision for change of name of the person adopted, or embodying in a decree of divorce a provision that either party may upon the divorce resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage.

The change of name provided for herein by order of the lieutenant governor shall be effective upon the date of the signing of the order.

In all cases of change of name, except as otherwise provided, the order or decree shall be recorded in the bureau of conveyances.

All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

ACT 32

S.B. NO. 1443

A Bill for an Act Relating to Expenditure of Public Money and Public Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 167, Section 1, Session Laws of Hawaii 1976, is amended by amending the second section to read as follows:

**"Sec. 103- Substitution of retainage.** Any other law to the contrary notwithstanding, any public contract issued under this chapter may provide that the contracting officer may enter into an agreement with the contractor which will allow the contractor to withdraw from time to time the whole or any portion

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\*Edited accordingly.

## ACT 33

of the sum retained under section 103- upon depositing with the contracting officer any general obligation bond of the State or its political subdivisions with a market value of not less than the sum to be withdrawn; provided that the contracting officer may require that the total market value of such bond be greater than the sum to be withdrawn."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

## ACT 33

S.B. NO. 1460

A Bill for an Act Relating to the Garnishment of Property and Choses in Action.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 651-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 651-2 Writ; issued when. The plaintiff, in any action upon a contract, express or implied, may, at the time of commencing the action, or at any time afterward before judgment, have the property of the defendant, or that of any one or more of several defendants, which is not exempt from execution, attached in the manner hereinafter prescribed, as security for the satisfaction of such judgment as he may recover, but no writ of attachment shall be issued (1) against the State, or any political municipal corporation, or subdivision thereof, or (2) in circumstances where garnishment is authorized under chapter 652."

SECTION 2. Section 652-1, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read:

"(a) Before judgment. When any goods or effects of a debtor are in the possession of an attorney, agent, factor, or trustee (in this chapter jointly and severally included in the term "garnishee"), or when any debt is due from any person (also included under the term "garnishee") to a debtor, or when any person has in his possession for safekeeping any moneys of the debtor, any creditor may bring his action against the debtor and in his petition for process, or by amendments of the complaint at any time before judgment, after meeting the requirements of section 652-1.5 may request the court to insert in the process a direction to the officer serving the same to leave a true and attested copy thereof with the garnishee or at his usual place of abode and to summon the garnishee to appear personally upon the day or term appointed in the process for hearing the action or at any other time appointed by the court and then and there on oath to answer all of the following inquiries, herein inclusively referred to as the "disclosure":

(1) Whether at the time the copy was served on him, he had any of the

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\*Edited accordingly.

goods or effects of the defendant in his hands and, if so, the nature, amount and value thereof;

- (2) Whether at the time of service, he was indebted to the defendant and, if so, the nature and amount of the debt; or
- (3) Whether at the time of service on him, he had any moneys of the defendant in his possession for safekeeping and, if so, the amount thereof.

The summons and direction shall be signed and issued as is usual in other civil process after proceedings under section 652-1.5. The summons shall specify an amount or value of money, debt or goods or effects to be garnished which shall not exceed 120 per cent of the amount of the plaintiff's claim, including cost and interest. The summons shall be served according to such accompanying direction. Upon receipt of the summons, the garnishee shall secure in his hands to pay such judgment as the plaintiff shall recover in the action, such of the following property or choses then in the garnishee's possession or owing to the defendant as shall equal the amount or value specified in the summons, except what the court has expressly found to be exempt from execution pursuant to section 652-1.5 (d) or (f):

- (1) The goods and effects of the defendant then in the hands of the garnishee;
- (2) Any debt then owing from the garnishee to the defendant;
- (3) Moneys of the defendant then in the possession of the garnishee for safekeeping; and
- (4) A portion of the defendant's wages, salary, stipend, commissions, annuity, or net income under a trust (in this chapter included under the term "wages"), by withholding the amount to be determined as follows: five per cent of the first \$100 per month, ten per cent of the next \$100 per month, and twenty per cent of all sums in excess of \$200 per month, or an equivalent portion of the above amount per week, whether then or thereafter to become owing. The property or choses described in (1), (2), (3), and (4) of this paragraph are included under the term "garnishee fund" (in this chapter). The cumulative total value of the fund, in advance of final judgment, shall be no more than the amount specified in the summons.

Except as provided in section 652-1.5, the summons and direction shall be sufficient notice to the defendant to enable the plaintiff to bring his action to trial, unless the defendant is an inhabitant of the State or has some time resided therein, in which case a like copy shall be served personally upon him or left at his last and usual place of abode.

The court shall order the garnishee fund released at the hearing provided in section 652-1.5 or thereafter upon the filing by the debtor with the court of a bond or bonds issued by a surety or sureties licensed to do business as such in the State, in an amount sufficient to pay the claim of the creditor together with costs and interest, and conditioned upon judgment rendered in favor of the creditor and to the extent the claim or any portion thereof, together with costs and interests, if any, is awarded.

(b) After judgment. Wages may be garnisheed after judgment at the rate specified in subsection (a) of this section. In any action brought by a creditor against a debtor, the creditor may, after judgment rendered in his favor, request the court to summon any garnishee to appear personally, upon a day appointed in the summons for hearing the cause as against the garnishee, and make full disclosure; or in any action brought in the district court by a creditor against a debtor, the creditor may, ten days after judgment rendered in his favor, file a certified copy of the judgment and his affidavit as to the amount due and unpaid on account of the judgment with the employer of the judgment debtor and the employer shall thereupon either file a disclosure within one week or shall withhold from the wages of the judgment debtor the amounts as provided herein and pay the same to the judgment creditor.

Alias summons shall also be issued and served similarly as other civil process. At the time of leaving the copy of the alias summons, any and every element of any garnishee fund then in the hands of the garnishee shall be there secured to pay the judgment already recovered and may not otherwise be disposed of by the garnishee."

SECTION 3. Section 652-1.5, Hawaii Revised Statutes, is amended by amending subsection (d) and (f) to read as follows:

"(d) The defendant debtor shall have the right to appear and be heard at the hearing. The hearing shall be limited to a determination of whether probable validity exists to sustain the validity of the creditor's claim and whether any of the property or choses in the possession of the garnishee is, to the same degree of certainty, exempt from execution. If the court, upon consideration of the facts before it, finds that the creditor has sustained the validity of his claim, then the garnishee process under section 652-1(a) applied for shall be granted as requested or modified by the court except to the extent the defendant debtor has shown all or a portion of the property or choses in the possession of the garnishee to be exempt from execution. The clerk shall deliver to the creditor's attorney the petition, summons, and direction for service of process. If the court denies the application, only a summons and complaint shall be served. In either event, the creditor may alter the return day of the petition, summons, and direction, or the summons and complaint, as the case may be.

(f) The defendant debtor in an action in which garnishee process was allowed under subsection (e) may move to dissolve or modify the garnishee process in which event the court shall proceed to hear and determine the motion expeditiously. If the court determines at the hearing requested by the debtor that probable validity exists to sustain the validity of the creditor's claim, then the garnishee process granted shall remain in effect, except as modified pursuant to a finding that all or a portion of the property or choses in action in the possession of the garnishee is exempt from execution. If the court determines there is no such probable validity, the garnishee process shall be dissolved. An order shall be issued by the court setting forth the action it has taken."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

ACT 34

S.B. NO. 1479

A Bill for an Act Relating to the Motor Vehicle Repair Industry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 437B-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 437B-1 Definitions.** As used in this chapter:

- (1) "Board" means the motor vehicle repair industry board.
- (2) "Department" means the department of regulatory agencies.
- (3) "Motor vehicle" means any passenger car, truck, truck tractor, motorcycle, or motor scooter, as defined in section 286-2.
- (4) "Motor vehicle repair dealer" means any person who is, or has in his employ, a motor vehicle mechanic registered under this chapter and who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles.
- (5) "Motor vehicle mechanic" means any person whether self-employed or employed by another, who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles, and may be classified as "intermediate" or "journeyman" as the terms are commonly used in the motor vehicle repair industry.
- (6) "Motor vehicle mechanic helper" means any person who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles under the supervision of a registered motor vehicle mechanic.
- (7) "Motor vehicle mechanic apprentice/trainee" means any person who is a party to an apprenticeship/trainee agreement registered with the Department of Labor and Industrial Relations in accordance with chapter 372.
- (8) "Registered mechanic" is a motor vehicle mechanic who has registered in accordance with this chapter.
- (9) "Registered-certified mechanic" is a motor vehicle mechanic who has been registered and certified in accordance with this chapter.
- (10) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the board by rule determines may be performed by persons without the skills and knowledge required of motor vehicle

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\*Edited accordingly.

mechanics and apprentices. No service shall be designated as minor, for purposes of this section, if the board finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation."

SECTION 2. Section 437B-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 437B-11 Prohibited practices.** The following acts or omissions related to the repair of motor vehicles shall be grounds for invoking the enforcement procedures of section 437B-12:

- (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading;
- (2) Causing or allowing a customer to sign any work order which does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;
- (3) Failing or refusing to give a customer a copy of a document requiring his signature, as soon as the customer signs such document;
- (4) Any other conduct which constitutes fraud;
- (5) Conduct constituting gross negligence;
- (6) Failure to comply with this chapter or regulations adopted pursuant to it;
- (7) Any wilful departure from or disregard of accepted practices or workmanship;
- (8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of a motor vehicle;
- (9) Having repair work subcontracted without the knowledge or consent of the customer unless the motor vehicle repair dealer, mechanic, or apprentice demonstrates that the customer could not reasonably have been notified;
- (10) Conducting the business of motor vehicle repair in a place other than stated on the registration except that mobile repair facilities may be permitted if the registration so indicates."

SECTION 3. Section 437B-23, Hawaii Revised Statutes, is amended to read:

**"Sec. 437B-23 Certification program.** (a) The board shall contract with the office of the state director of vocational education to develop and administer a certification program for motor vehicle mechanics.

(b) The certification program shall provide for issuing a certificate to mechanics generally skilled in the repair of motor vehicles and to mechanics who specialize in certain areas of motor vehicle repair. A person may be certified as being generally skilled in the repair of motor vehicles, specially skilled in one or more areas of motor vehicle repair, or both generally and specially skilled. Each area shall be separately tested and certified. The program shall provide for

apprenticeship leading to certification as a mechanic. The program may be an apprenticeship program registered with the Department of Labor in accordance with chapter-372. Nothing in this section or chapter shall prevent a student in a course leading to certification from repairing motor vehicles so long as the student is supervised by a mechanic.

(c) The certification test shall include both a written test and a performance test; provided that the written test shall be given orally upon the request of the person being tested. Each application for certification shall be accompanied by a non-refundable testing fee of \$10.

(d) The certification program shall be implemented prior to January 1, 1977. There shall be no limit on the number of times a person may apply for certification; provided that any person failing the examination must wait thirty days before retaking the test.

(e) All persons who take and pass the certification test shall be awarded a certificate which shall be posted in a prominent place at their place of business or employment and a patch which may be worn on clothing apparel. The office of the director of vocational education shall design and procure the certificate and patch."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon approval.

(Approved May 5, 1977.)

ACT 35

H.B. NO. 841

A Bill for an Act Relating to Payment of Wages by Payroll Check.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 388, part 1, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**Sec. 388- Payment of wages by check.** Whenever an employee receives his wages from his employer in the form of a check for which insufficient amounts are available in the bank account of the employer, the employer shall be liable for any bank's special handling fee which the employee may incur by reason of negotiating the check."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

\*Edited accordingly.

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"Sec. 346- Optometric services, choice.** Whenever visual or optometric services within the lawful scope of practice of a duly licensed optometrist are included in any program, financed with public funds or administered by any public agency, for aid to the indigent, the aged, the legally blind, or any other group or class, the recipient of the aid shall be entitled to choose whether the services are to be performed by a duly licensed physician or by a duly licensed optometrist. Visual or optometric services as used herein include eye and/or visual examination or a correction of any vision or muscular anomaly and the supplying of ophthalmic materials, including contact lenses and subnormal vision aids.

**Sec. 346- Examination of blind.** The department of social services shall not approve an application for public assistance to a blind person until the applicant has been examined by an ophthalmologist, optometrist, or a qualified physician designated by it to make such examinations. The examining person shall certify to the department the diagnosis, prognosis, and visual acuity of the applicant. Certification shall be in forms prescribed by the department."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

A Bill for an Act Relating to Divorce.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 580-47, Hawaii Revised Statutes, is hereby amended to read as follows:\*

**"Sec. 580-47 Support orders; division of property.** (a) Upon granting a divorce, the court may make such further orders as shall appear just and equitable (i) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the parties; (ii) compelling either party to provide for the support and maintenance of the other party; (iii) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (iv) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether

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\*Edited accordingly.

community, joint or separate, and the attorney's fees, costs, and expenses incurred by each party by reason of the divorce. In making such further orders, the court shall take into consideration the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case. Provision may be made for the support, maintenance and education of an adult or minor child and for the support, maintenance and education of an incompetent adult child whether or not the application is made before or after the child has attained the age of majority.

(b) An order as to the custody, management, and division of property and as to the payment of debts and the attorney's fees, costs and expenses incurred in the divorce shall be final and conclusive as to both parties subject only to appeal as in civil cases. The court shall at all times, including during the pendency of any appeal, have the power to grant any and all orders that may be necessary to protect and provide for the support and maintenance of the parties and any children of the parties to secure justice, to compel either party to advance reasonable amounts for the expenses of the appeal including attorney's fees to be incurred by the other party, and to amend and revise such orders from time to time.

(c) No order entered under the authority of subsection (a) of this section or entered thereafter revising so much of such an order as provides for the support, maintenance and education of the children of the parties shall impair the power of the court from time to time to revise its orders providing for the support, maintenance and education of the children of the parties upon a showing of a change in the circumstances of either party or any child of the parties since the entry of any prior order relating to such support, maintenance and education.

(d) Upon the motion of either party supported by an affidavit setting forth in particular a material change in the physical or financial circumstances of either party, or upon the motion of the party against whom an order was entered supported by an affidavit setting forth in particular that the other party, although able and capable of substantially rehabilitating himself or herself financially, has wilfully failed to do so, the moving party may, in the discretion of the court, and upon adequate notice to the other party, be granted a hearing. The fact that the moving party is in default or arrears in the performance of any act or payment of any sums theretofore ordered to be done or paid by him or her shall not necessarily constitute a bar to the granting of the hearing. The court, upon such hearing, shall consider all proper circumstances in determining the amount of the allowance, if any, which shall thereafter be ordered.

(e) Attorney's fees and costs. The court hearing any motion for orders either revising an order for the support, maintenance and education of the children of the parties, or an order for the support and maintenance of one party by the other, or a motion for an order to enforce any such order or any order made under subsection (a) of this section, may make such orders requiring either party to pay or contribute to the payment of the attorney's fees, costs and expenses of the other party relating to such motion and hearing as shall appear

## ACT 38

just and equitable after consideration of the respective merits of the parties, the relative abilities of the parties, the economic condition of each party at the time of the hearing, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

## ACT 38

S.B. NO. 1304

A Bill for an Act Relating to Interest Rates.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 407, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 407- Charges.** Any savings and loan association may charge, contract for, receive, collect in advance, or recover interest, discount, and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under chapter 408, if in relation to the contract such savings and loan association shall be in compliance with sections 408-15 and 408-17 applicable to licensees under chapter 408.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

## ACT 39

S.B. NO. 1368

A Bill for an Act Relating to Foreign Lenders.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 207-12, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 207-12 Exemptions and Immunities.** A foreign lender which (1) does not maintain a place of business in this State, (2) conducts its principal activities outside this State, and (3) complies with this part, does not by engaging in this State in any or all of the activities specified in the following section violate the laws of this State relating to doing business or doing a banking, trust or insurance business, or become subject to chapter 401, 402, 403, 406, 407, 418 or 431, or become subject to any taxation which would otherwise be imposed for

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\*Edited accordingly.

doing business in or doing a banking, trust, or insurance business in, or having gross income or receipts from sources in, property in, or the conduct of any activity in, this State, or become subject to any taxation under chapters 235, 237 or 241, and no income or receipts of any foreign lender arising out of any of the activities specified in the following section shall constitute income from sources in, property in, or activities conducted in this State for the purposes of any tax imposed by this State; provided that nothing in this part shall be construed to exempt the real property of a foreign lender from taxation to the same extent, according to its value, as other real property is taxed, or to preclude the inclusion of the dividends or other income from foreign lenders in the income of individuals taxable under chapter 235 to the same extent as is included dividends and other income from domestic lenders; and provided further, that if any such foreign lender shall acquire any property in this State in enforcement of the rights of the foreign lender in the event of a default by any borrower, as permitted by section 207-13(4), then commencing one year after title to such property has vested in the foreign lender, the rents or other receipts received by the foreign lender from, and the proceeds of sale by the foreign lender of, such property shall be subject to taxation under chapters 235 and 237 in the same manner and to the same extent as if the rents, other receipts, or proceeds were received by a resident of this State; and provided, further, that if any such foreign lender shall otherwise acquire any property in this State or engage in any business or activities in this State not specified in the following section, then the rents and other receipts received by the foreign lender from such property and the proceeds of sale by the foreign lender of such property and all income and receipts from the foreign lender's business or activities in this State not specified in the following section, shall be subject to taxation under chapter 235 and 237 in the same manner and to the same extent as if such rents, other receipts, proceeds and income were received by a resident of this State, but such other activities and business shall not deprive the foreign lender of the immunities and exemptions from taxation hereinabove stated with respect to the activities specified in the following section."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 40

H.B. NO. 7

A Bill for an Act Relating to the Establishment of a Legislative Economic Advisory Council.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 23, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

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\*Edited accordingly.

**"PART . LEGISLATIVE ECONOMIC ADVISORY COUNCIL**

**Sec. 23-Purpose.** The legislature finds that in matters affecting taxes and governmental revenues, expenditures, and operations, the aid of members of the financial, business, and academic community is invaluable. The legislative process gains from the response of the community, and the information acquired through the dialogue enlarges the basis for sound legislative action. The purpose of this part is to provide that the financial and economic resources of the State will become an integral aid to the legislature and to assure community assistance and guidance to legislative decision making by establishing a legislative economic advisory council.

**Sec. 23- Definition.** As used in this part, "council" means the legislative economic advisory council.

**Sec. 23- Establishment.** There shall be in the office of the legislative auditor for administrative purposes a legislative economic advisory council to provide joint assistance to the senate committee on ways and means and the house of representatives committee on finance.

**Sec. 23- Composition; appointment.** (a) The council shall be composed of five members representing a broad spectrum of the financial, business, and academic community.

(b) The ombudsman, the legislative auditor, and the director of the legislative reference bureau shall submit a list of ten names to the president of the senate and the speaker of the house of representatives who shall jointly appoint the members of the council.

(c) The president of the senate and the speaker of the house of representatives shall jointly appoint one of the members of the council as chairman of the council.

**Sec. 23- Term.** The members of the council shall be appointed for three-year terms.

**Sec. 23- Duties.** The council shall provide financial information to both the senate committee on ways and means and the house of representatives committee on finance at the joint request of the president of the senate and the speaker of the house of representatives. The council may establish the necessary ad hoc committees for the purposes of gathering information; provided that at least one member of the council shall be a member of each ad hoc committee.

**Sec. 23- Expenses.** The members of the council and ad hoc committees shall serve without compensation but shall be reimbursed for all necessary expenses incurred in the performance of their duties on behalf of the council."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 41

H.B. NO. 74

A Bill for an Act Providing for the Use of School Facilities for the Operation of After School Child Care Programs.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to promote after school child care programs by making available the use of school facilities to individuals, organizations, or agencies to operate such programs. By eliminating the need to transport children from school to sitter or day care center, after school child care centers located on school grounds will greatly ease the task of working parents who must provide for the care of their school-aged children through their hours of work. It is also hoped that allowing the use of school buildings will reduce the facilities costs of providing after school child care and thereby reduce costs to parents.

**SECTION 2. Means.** Chapter 298, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 298- Use of school facilities for after school child care.** The department of education may enter into agreements and contracts with individuals, organizations, or agencies for the use of public school buildings, facilities, and grounds for the operation of after school child care programs. The board of education shall issue such rules as are necessary to carry out the purposes of this section."

**SECTION 3.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

**SECTION 4.** Effective date. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 42

H.B. NO. 152

A Bill for an Act Relating to State Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 225-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director shall hold additional hearings and informational hearings subject to subsection (a), not later than ninety days prior to finalization and submission of the state plan to the legislature, for the purpose of discussing any analyses, reports, or drafts then in existence as well as eliciting citizen comments on the progress and form of the development of the state plan."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 6, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to the Submission of County Budgets.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 248-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 248-4 Submission of budgets during years legislature meets.** In each year in which the legislature meets in regular session, each county shall submit to the legislature and to the director of finance, at least twenty days before the legislature convenes, the budget of the county for the current fiscal year and the next succeeding fiscal year. Such budgets shall show estimated receipts as well as estimated expenditures. The form in which budgets shall be submitted and the itemization thereof may be prescribed by the legislature which may require the inclusion therein of relevant information concerning the last two completed fiscal years."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

A Bill for an Act Relating to Accidental Death Benefit.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-85, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-85 Accidental death benefit.** Upon the receipt of proper proofs of a member's death by the board of trustees, there shall be paid to the member's designated beneficiary or to his estate the amount of his accumulated contributions and if, upon the receipt of evidence or proofs that the death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, or that the death was due to the result of some occupational hazard, the board shall decide that the death was the result of an accident in the performance of duty and not caused by willful negligence on the part of the member, there shall be paid in lieu of the ordinary death benefits provided by the contributions of the State and county, a pension of one-half of the average final compensation of the member:

- (1) To the surviving spouse of the member to continue until the surviving spouse remarries; or
- (2) If there be no surviving spouse, or if the surviving spouse dies or remarries before any child of the deceased member shall have attained

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\*Edited accordingly.

the age of eighteen years, then to his child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension of one-half of his final compensation until every child dies, or attains such age; or

- (3) If there is no surviving spouse or child under the age of eighteen years surviving the deceased member, then to his dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board, or if there is no such nomination, then to his dependent father or to his dependent mother as the board, in its discretion, shall direct to continue for life.

Notwithstanding any other law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system, resulting in death to a fireman, police officer, or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no willful negligence on the fireman's, police officer's, or sewer worker's part, and as a result of the inherent occupational hazard of exposure to an inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such fireman, police officer, or sewer worker shall have passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon approval.

(Approved May 6, 1977.)

## ACT 45

H.B. NO. 206

A Bill for an Act Relating to Statewide Emergency Medical Services Program.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-151, Hawaii Revised Statutes, is amended to read:

"**Sec. 321-151 Emergency medical services** (a) The department of health shall be solely responsible for the coordination of a comprehensive statewide emergency medical services program and systems that will include but not be limited to quick identification of and response to all medical emergencies and injuries; sustain life through proper emergency measures, both at the scene and while in transit to an appropriate medical facility; evaluate the coordination, transportation and communications necessary to take the injured to an appropriate medical facility within the shortest practicable time, without creating additional hazards; and insure quality of emergency and intensive care given at the medical facility.

(b) The director of health may adopt rules and regulations and standards, to include but not be limited to ambulances, hospitals, and emergency facilities,

## ACT 46

and all related emergency care personnel, pursuant to chapter 91 to effectuate the purposes of this section.

(c) The director of health may assess and collect reasonable fees for carrying out the regulatory provisions relating to ambulance certification fees".

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

## ACT 46

H.B. NO. 236

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-53, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-53 Alternative "short-form" tax; tables.** If a taxpayer's adjusted gross income for the taxable year is less than \$15,000, he shall have the option of filing a short-form return, which form and procedure for its filing, shall substantially conform to the appropriate rules and regulations, forms, and procedures adopted and established under the Internal Revenue Code governing the filing of federal short-form returns and use of tax tables; provided that the tax to be assessed, levied, collected, and paid by a taxpayer through his use of the short-form return shall be substantially equivalent to the tax provided in section 235-51 and shall be in lieu thereof."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing the Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1976.

(Approved May 6, 1977.)

## ACT 47

H.B. NO. 325

A Bill for an Act Relating to Income Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that with the enactment of Public Law 94-455 by the 94th United States Congress, extensive and far-reaching changes were made to the income tax laws of our nation. The legislature further finds that the state income tax law should be updated by adopting relevant provisions of such public law and other public laws that must be adopted due to adopting

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\*Edited accordingly.

certain provisions of such public law.

The purpose of this Act is to adopt federal changes to the income tax law.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"Sec. 235-2.2 Internal Revenue Code, further amendments adopted.** For each taxable year specified in column 1 below, the Internal Revenue Code meant is the Internal Revenue Code of 1954 as amended as of June 7, 1957 and as further amended by the acts of Congress, or portions thereof, enumerated in column 2 (section numbers in column 2 are inclusive). Amendments to the code not enumerated in section 235-2, 235-2.1, or herein shall not be operative for the purposes of this chapter unless specifically adopted.

**Column 1**  
Taxable years beginning on or after  
January 1, 1977.

**Column 2**  
Public Law 629, 84th Cong., 2d Session, section 5(a) (with respect to nontaxable exchanges for taxable years beginning after December 31, 1976).  
Public Law 86-779, section 10(h) (with respect to constructive ownership of stock for taxable years beginning after December 31, 1976).  
Public Law 86-781, section 6(a) (with respect to limitation on acceleration of accrual of taxes for taxable years beginning after December 31, 1976).  
Public Law 87-876, section 3(a) (with respect to dividends or interest paid on certain deposits or withdrawable accounts for taxable years beginning after December 31, 1976).  
Public Law 88-272, sections 218(a) and (b) (with respect to corporate reorganizations for taxable years beginning after December 31, 1976) and 226(a) and (b) (with respect to treatment in case of oil and gas wells for taxable years beginning after December 31, 1976).  
Public Law 88-484, section 1(b)(1) and (2) (with respect to corporate distributions in taxable years beginning after December 31, 1976).  
Public Law 88-539, section 3(a) and (b) (with respect to the installment method of accounting for taxable

years beginning after December 31, 1976).

Public Law 88-554, section 4(a) (with respect to constructive ownership of stock for taxable years beginning after December 31, 1976).

Public Law 88-563, section 5 (with respect to original issue discount for taxable years beginning after December 31, 1976).

Public Law 89-97, sections 106(a), (b), (c), and (d)(1) (with respect to medical deductions for taxable years beginning after December 31, 1976) and 313(b) (with respect to employee tips for taxable years beginning after December 31, 1976).

Public Law 89-570, section 1(b)(2) and (4) (with respect to corporate distributions in taxable years beginning after December 31, 1976).

Public Law 89-809, section 202(c) (with respect to methods of accounting for taxable years beginning after December 31, 1976).

Public Law 90-621, section 1(a) and (b) (with respect to corporate reorganizations for taxable years beginning after December 31, 1976).

Public Law 91-172, sections 211(a) and (b)(1) to (6) (with respect to gain from disposition of property used in farming where farm losses offset nonfarm income for taxable years beginning after December 31, 1976; provided that provisions relating to the excess deduction account shall not apply), 214(a) (with respect to gain from disposition of farm land for taxable years beginning after December 31, 1976), 215(a) (with respect to crop insurance proceeds for taxable years beginning after December 31, 1976), 216(a) (with respect to capitalization of costs of planting and developing citrus groves for taxable years beginning after

December 31, 1976), 221(a) (with respect to definition of terms deduction attributable to investment indebtedness for taxable years beginning after December 31, 1976), 413(a) and (b) (with respect to bonds and other evidences of indebtedness for taxable years beginning after December 31, 1976), 511(a) (with respect to definition of terms applicable to capital gains and losses for taxable years beginning after December 31, 1976), 802(b)(1) and (2) (with respect to the determination of marital status for taxable years beginning after December 31, 1976), and 916(a) (with respect to methods of accounting for taxable years beginning after December 31, 1976). Public Law 91-680, section 1(a) (with respect to capitalization of costs of planting and developing almond groves for taxable years beginning after December 31, 1976).

Public Law 91-687, section 1 (with respect to determining when stock of a corporation shall not be treated as a capital asset for taxable years beginning December 31, 1976).

Public Law 91-693, section (a) and (b) (with respect to corporate reorganizations for taxable years beginning after December 31, 1976).

Public Law 92-178, sections 304(a)(2), (c), and (d) (with respect to excess investment interest for taxable years beginning after December 31, 1976) and 305(a) (with respect to farm losses of electing small business corporations for taxable years beginning after December 31, 1976; provided that provisions relating to the excess deduction account shall not apply).

Public Law 93-406, sections 1013(c)(2) (with respect to when certain contributions may be made

for taxable years beginning after December 31, 1976) and 2004(a)(2) (with respect to limitations on benefits and contributions under qualified plans for taxable years beginning after December 31, 1976). Public Law 93-483, sections 4 (with respect to application of section 117 of the Internal Revenue Code to certain educational programs for members of the uniformed services for taxable years beginning after December 31, 1976) and 6(a) (with respect to penalties forfeited because of premature withdrawal of funds from time-savings accounts or deposits for taxable years beginning after December 31, 1976).

Public Law 94-12, section 207 (with respect to extension of period for replacing old residence for purpose of nonrecognition of gain for taxable years beginning after December 31, 1976).

Public Law 94-267, sections (a)(1), (2), and (3) and (b)(1), (2), and (3) (with respect to termination of employee trusts and annuity plans for taxable years beginning after December 31, 1976).

Public Law 94-455, sections 201(a) (with respect to the capitalization and amortization of real property construction period interest and taxes, in the case of (1) nonresidential real property, for taxable years beginning after December 31, 1976, and (2) residential real property, other than low-income housing for taxable years beginning after December 31, 1977, and (3) low-income housing, for taxable years beginning after December 31, 1981; provided that the transitional rule for 1976 (section 189(f) of the Internal Revenue Code as added by section 201(a) shall not apply)), 202(a), (b),

and (c) (with respect to the recapture of depreciation on real property for taxable years beginning after December 31, 1976; provided that section 202(b) shall apply with respect to proceedings and operations of law referred to in section 1250(d)(10) of the Internal Revenue Code which begins after December 31, 1976), 203(a) (with respect to the depreciation of expenditures to rehabilitate low-income rental housing for taxable years beginning after December 31, 1976; provided that (1) section 167(k) of the Internal Revenue Code as adopted by this State is amended by striking out "January 1, 1975" in paragraph (1) and inserting in lieu thereof "January 1, 1978", (2) the amendments made by section 203(a)(1), (3), and (4) shall apply to expenditures paid or incurred after December 31, 1976, and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978, and (3) the amendment made by section 203(a)(2) shall apply to expenditures incurred after December 31, 1976), 204(a) and (c)(2) and (3)(A) and (B) (with respect to limitations on deductions for expenses for taxable years beginning after December 31, 1976; provided that the amendments made by section 204(a) shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1976, and for this purpose, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period; provided further that as adopted by this State (1) the date September 11, 1975 in

section 204(c)(2)(A) shall read January 1, 1977, (2) the dates December 31, 1975 and September 10, 1975, respectively, in section 204(c)(2)(B) shall read December 31, 1976 and January 1, 1977, respectively, (3) the date January 1, 1976 in section 204(c)(3)(A) shall read January 1, 1977, (4) the date December 31, 1975 in section 204(c)(3)(B) shall read December 31, 1976, and (5) the dates contained in section 204(c)(3)(C) shall be disregarded), 205(a), (b), and (c) (with respect to gain from the disposition of interest in oil or gas property for taxable years beginning after December 31, 1976; provided that section 1254 of the Internal Revenue Code as adopted by this State is amended by striking out "December 31, 1975" therein and inserting in lieu thereof "December 31, 1976"), 206(a) and (b) (with respect to gain from disposition of property used in farming where farm losses offset nonfarm income for taxable years beginning after December 31, 1976; provided that the adoption of section 206(a) shall not result in application of the excess deduction account for taxable years beginning before January 1, 1977), 207(a)(1), (b)(1) and (2) and (c)(1)(A), and (c)(3) (with respect to limitations on deductions in case of farming syndicates; capitalization of certain orchard and vineyard expenses; and method of accounting for corporations engaged in farming for taxable years beginning after December 31, 1976), 208(a) (with respect to prepaid interest for taxable years beginning after December 31, 1976), 209(a) and (b)(2) (with respect to limitation on interest deduction for taxable years beginning after

December 31, 1976, except where otherwise provided in section 209(b)(2); provided that as adopted by this State (1) the date "September 11, 1975" in section 209(b)(2) shall read "January 1, 1977", and (2) the date "September 10, 1975" in section 209(b)(2) shall read "December 31, 1976", 210(a) (with respect to amortization of motion pictures, books, records, and other similar property for taxable years beginning after December 31, 1976), 212(a)(1) and (b)(1) (with respect to basis limitation for and recapture of depreciation on player contracts for taxable years beginning after December 31, 1976), 213(a) (with respect to dollar limitations in the case of partnerships with respect to additional first-year depreciation allowance for taxable years beginning after December 31, 1976), (b)(1) and (3) (with respect to treatment of organization and syndication fees for taxable years after December 31, 1976), (c)(1) and (2) (with respect to allocation of partnership income and losses for taxable years beginning after December 31, 1976), (d) (with respect to determination of partner's distributive shares for taxable years beginning after December 31, 1976), and (e) (with respect to treatment of partnership liabilities with respect to which the partner is not personally liable for taxable years beginning after December 31, 1976), 214(a) (with respect to scope of waiver of statute of limitations in case of activities not engaged in for profit for taxable years beginning after December 31, 1976), 502(a) (with respect to deductions for alimony allowed in determining adjusted gross income for taxable years

beginning after December 31, 1976), 506(a), (b), and (c) (with respect to moving expenses for taxable years beginning after December 31, 1976), 601(a) (with respect to deductions for expenses attributable to business use of home, rental of vacation homes, etc. for taxable years beginning after December 31, 1976), 602(a) (with respect to deductions for attending conventions for taxable years beginning after December 31, 1976), 605(a) (with respect to deductions for guarantees of business bad debts to guarantors not involved in business for taxable years beginning after December 31, 1976), 701(a)(2) and (3), (b), (c), (d), and (e)(2) (with respect to accumulation trusts for taxable years beginning after December 31, 1976; provided that the reference in section 668 of the Internal Revenue Code to section 667 of the Internal Revenue Code shall be deemed a reference to section 235- relating to the treatment of amounts deemed distributed by trust in preceding years and the reference in section 641 of the Internal Revenue Code to section 644(b) of the Internal Revenue Code shall be deemed a reference to section 235- (b) relating to the special rule for gain on property transferred to trusts at less than fair market value), 806(e), (f), as to special limitations on capital losses, and (g)(2) (with respect to limitations on net operating loss carryovers and capital losses effective for taxable years as provided in section 806(g)(2)), 1401(a) and (b) (with respect to amounts of ordinary income against which capital loss may be offset for taxable years beginning after December 31, 1976), 1402(a), (b), (c), and (d) (with respect to increases in holding period

required for capital gain or loss to be long term from six to nine months for taxable years beginning after December 31, 1976 and from nine months to one year for taxable years beginning after December 31, 1977), 1404(a) (with respect to sales of residences by the elderly for taxable years beginning after December 31, 1976), 1501(a) and (b)(1) to (6) and (10) (with respect to retirement savings for certain married individuals for taxable years beginning after December 31, 1976), 1502(a)(1) and (2) (with respect to limitations on contributions to certain pension, etc., plans for taxable years beginning after December 31, 1976), 1503(a) (with respect to participation by members of reserves or national guard, and volunteer firefighters in individual retirement accounts, etc. for taxable years beginning after December 31, 1976), 1901(a)(22) (with respect to determination of marital status for taxable years beginning after December 31, 1976), (a)(66) (with respect to accounting methods for taxable years beginning after December 31, 1976), (a)(87) (with respect to the definition of property for taxable years beginning after December 31, 1976), (a)(128) (with respect to involuntary conversion for taxable years beginning after December 31, 1976), and (a)(136) (with respect to definition of terms applicable to capital gains and losses for taxable years beginning after December 31, 1976), and (b)(3)(I) (with respect to taxable years beginning after December 31, 1976), and (b)(3)(K) (with respect to ordinary income for taxable years beginning after December 31, 1976; provided that provisions relating to

the excess deduction account shall not apply), and (b)(14)(D) (with respect to taxable years beginning after December 31, 1976), 1904(b)(10)(C) (with respect to taxable years beginning after January 31, 1977), 1951(b)(7) (with respect to accounting methods for taxable years beginning after December 31, 1976; provided that notwithstanding the amendment made by section 1951(b)(7), in the case of installment payments received during taxable years beginning after December 1976, on account of a sale or other disposition made during a taxable year beginning before January 1, 1954, subsection (b)(1) of section 453 of the Internal Revenue Code (relating to sales of realty and casual sales of personalty) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939), returnable on the basis and in the manner prescribed in section 44(a) of the Internal Revenue Code of 1939), 2004(e) (with respect to requirements for capital gain on stock redemptions to pay estate taxes for taxable years beginning after December 31, 1976; provided that the reference in section 303(b)(1) of the Internal Revenue Code to the time limits in sections 6213, 6501(a), 6166, and 6166A of the Internal Revenue Code or the election under sections 6166 and 6166A of the Internal Revenue Code shall be followed by the State even though the State has not adopted such sections), 2005(a) (with respect to carryover basis of inherited property for taxable years beginning after December 31, 1976; provided that the amendment of section 1014(d) of the Internal Revenue Code made by section 2005(a) shall for the purposes of this

State be considered an addition of new subsection (d) to section 1014 of the Internal Revenue Code as adopted by this State), (b) (with respect to the use of certain appreciated carryover basis property to satisfy pecuniary request for taxable years beginning after December 31, 1976), and (c) (with respect to increases in basis for gift tax paid to that portion of gift tax attributable to net appreciation in value for taxable years beginning after December 31, 1976), 2101(b) (with respect to allowances of depreciation deduction by a cooperative housing corporation for taxable years beginning after December 31, 1976), 2102(a) and (b) (with respect to treatment of certain disaster payments for taxable years beginning after December 31, 1976), 2104(a) (with respect to deductions for bad debts owed by a political party for taxable years beginning after December 31, 1976), 2110(a) (with respect to application of franchise rules to partnerships for taxable years beginning after December 31, 1976; provided that the amendments made by section 2110(a) shall apply to transactions described in section 731, 736, 741, or 751 of the Internal Revenue Code which occur after December 31, 1976, in taxable years ending after that date), 2118(a) (with respect to treatment of gain or loss on sales or exchanges in connection with simultaneous liquidation of a parent or subsidiary corporation for taxable years beginning after December 31, 1976), 2122(a) and (b)(2), (3), and (4) (with respect to allowances of deduction for eliminating architectural and transportation barriers for the handicapped for taxable years

beginning after December 31, 1976 and before January 1, 1980), 2124(a)(1), (2), and (3) (with respect to the rehabilitation of certified historic structures with respect to additions to capital accounts made after December 31, 1976 and before June 15, 1981), (b)(1) (with respect to demolition of certain historic structures commencing after December 31, 1976 and before January 1, 1981), (c)(1) (with respect to depreciation of rehabilitation expenditures of certified historical structures on that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1976 and before January 1, 1981; provided that section 167(n) of the Internal Revenue Code as adopted by this State is amended by striking out "June 30, 1976" and inserting in lieu thereof "January 1, 1977"), (d)(1) (with respect to depreciation of rehabilitation expenditures of certified historical structures with respect to additions to capital account occurring after December 31, 1976 and before July 1, 1981), and (e)(1) (with respect to deductions for charitable contributions of partial interests in property for conservation purposes with respect to contributions made after December 31, 1976 and before June 14, 1977), 2127(a) (with respect to outdoor advertising displays for taxable years beginning after December 31, 1976), 2129(a) (with respect to gain from sale of depreciable property between related parties for taxable years beginning after December 31, 1976; provided the amendments made by section 2129(a) shall apply to sales or exchanges after December 31, 1976; and provided that a sale or exchange

is considered to have occurred on or before such date if such sale or exchange is made pursuant to a binding contract entered into on or before such date), 2130 (with respect to application of section 117 of the Internal Revenue Code to certain education programs for members of the uniformed services), 2131(a), (b), (c), (d), and (e)(1) (with respect to exchange fund transfers made in taxable years ending after December 31, 1976; provided that (1) except as provided in (2) following, the amendment made by section 2131(a) shall apply to transfers made after December 31, 1976, in taxable years ending after such date; provided further that (2) the amendment made by section 2131(a) shall not apply to transfers made in accordance with a ruling issued by the Internal Revenue Service before February 18, 1976, holding that a proposed transaction would be a reorganization described in paragraph (1) of section 368(a) of the Internal Revenue Code; and (3) except as provided in the (4) following, the amendments made by section 2131(b) and (c) shall apply to transfers made after December 31, 1976, in taxable years ending after such date; provided further that (4) the amendments made by section 2131(b) and (c) shall not apply to transfers made on or before January 2, 1977 if: (A) either (i) a ruling request with respect to such transfers was filed with the federal Internal Revenue Service before March 27, 1976, or (ii) a registration statement with respect to such transfers was filed with the federal Securities and Exchange Commission before March 27, 1976 (B) the securities transferred were deposited on or before December 3, 1976, and (C)

either (i) the aggregate value (determined as of the close of December 3, 1976, or, if earlier, the close of the deposit period) of the securities so transferred does not exceed \$100,000,000, or (ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in (A)(ii) preceding; provided further that (5) if no registration statement was required to be filed with the federal Securities and Exchange Commission with respect to the transfer of securities to any partnership, then (4) preceding shall be applied to such transfers (A) as if (4) preceding did not contain (4)(A)(ii) preceding, and (B) by substituting "\$25,000,000" for "\$100,000,000" in (4)(C)(i) preceding; and provided further that (6) the amendments made by section 2131(d) and (e) shall take effect on January 1, 1977, in taxable years ending on or after such date), 2132(a) (with respect to contributions of certain government publications for taxable years beginning after December 31, 1976), 2135(a) (with respect to charitable contributions of inventory and other property for taxable years beginning after December 31, 1976), 2136(a) (with respect to treatment of grantor of options of stock, securities, and commodities for taxable years beginning after December 31, 1976), 2139(a) (with respect to support test for dependent children of divorced, etc. parents for taxable years beginning after December 31, 1976), 2140(a) (with respect to involuntary conversions of real property for taxable years beginning after December 31, 1976; provided that the amendments made by section 2140(a)

shall apply with respect to any disposition of converted property (within the meaning of section 1033(a)(2) of the Internal Revenue Code) after December 31, 1976, unless a condemnation proceeding with respect to such property began before such effective date), and 2141(a) (with respect to livestock sold on account of drought for taxable years beginning after December 31, 1976).

For taxable years beginning on or after January 1, 1978.

Public Law 94-455, section 505(a) and (b) (with respect to changes in exclusions for sick pay and certain military, etc., disability pensions; certain disability income for taxable years beginning after December 31, 1977; provided that where disability or annuity payments are excluded from taxation by section 235-7 the adoption of section 505(a) and (b) shall not make such payments taxable under this chapter)."

SECTION 3. Chapter 235, Hawaii Revised Statutes, is amended by adding two new sections to be inserted after section 235-58, to be appropriately designated, and to read as follows:

**"Sec. 235- Treatment of amounts deemed distributed by trust in preceding years.** (a) General rule. The total of the amounts which are treated under section 666 of the Internal Revenue Code of 1954, as amended (hereinafter referred to as "Code"), as having been distributed by a trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under section 662(a)(2) of the Code (and, with respect to any tax-exempt interest to which section 235-7 applies, under section 662(b) of the Code) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this chapter on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of:

- (1) A partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted, and
  - (2) A partial tax determined as provided in subsection (b) of this section.
- (b) Tax on distribution.

- (1) In general. The partial tax imposed by subsection (a)(2) shall be determined:
  - (A) By determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 666(a) of the Code to have been distributed.
  - (B) By taking from the five taxable years immediately preceding the year of the accumulation distribution the one taxable year for which the beneficiary's taxable income was the highest and the one taxable year for which his taxable income was the lowest.
  - (C) By adding to the beneficiary's taxable income for each of the three taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under section 666 of the Code and required to be included in income under subsection (a) by the number of preceding taxable years determined under subparagraph (A), and
  - (D) By determining the average increase in tax for the three taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subsection (a)(2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes deemed distributed to the beneficiary under section 666(b) and (c) of the Code.

- (2) Treatment of loss years. For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.
- (3) Certain preceding taxable years not taken into account. For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than twenty-five per cent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a) of the Code, the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) of the Code shall be determined without regard to such year.
- (4) Effect of other accumulation distributions. In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under section 666 of the Code as a result of prior accumulation distributions (whether from the same or another trust).
- (5) Multiple distributions in the same taxable year. In the case of accumulation distributions made from more than one trust which are includible in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

- (c) Special rule for multiple trusts.
- (1) In general. If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as "third trust") is deemed under section 666(a) of the Code to have been distributed to such beneficiary, some part of prior distribution by each of two or more other trusts is deemed under section 666(a) of the Code to have been distributed to such beneficiary, then subsections (b) and (c) of section 666 of the Code shall not apply with respect to such part of the accumulation distribution from such third trust.
- (2) Accumulation distributions from trust not taken into account unless they equal or exceed \$1,000. For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under 666(a) of the Code to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds \$1,000.

**Sec. 235- Special rule for gain on property transferred to trust at less than fair market value. (a) Imposition of tax.**

- (1) In general. If:
  - (A) A trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than two years after the date of the initial transfer of the property in trust by the transferor, and
  - (B) The fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after such transfer,
 there is hereby imposed a tax determined in accordance with paragraph (2) on the includible gain realized on such sale or exchange.
- (2) Amount of tax. The amount of the tax imposed by paragraph (1) on any includible gain realized on the sale or exchange of any property shall be equal to the sum of:
  - (A) The excess of:
    - (i) The tax which would have been imposed under this chapter for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includible gain realized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over
    - (ii) The tax actually imposed under this chapter for such taxable year on the transferor, plus
  - (B) If such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the interest rate established under section 231-39(b)(4).

- (3) Taxable year for which tax imposed. The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.
- (4) Tax to be in addition to other taxes. The tax imposed by this subsection for any taxable year of the trust shall be in addition to any other tax imposed by this chapter for such taxable year.
- (b) Definition of includible gain. For purposes of this section, the term "includible gain" means the lesser of:
  - (1) The gain realized by the trust on the sale or exchange of any property, or
  - (2) The excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the adjusted basis of such property immediately after such transfer.
- (c) Character of includible gain. For purposes of subsection (a):
  - (1) The character of the includible gain shall be determined as if the property had actually been sold or exchanged by the transferor; and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and
  - (2) The portion of the includible gain subject to the provisions of section 1245 of the Internal Revenue Code of 1954, as amended (hereinafter referred to as "Code"), and section 1250 of the Code shall be determined in accordance with rules adopted by the director of taxation.
- (d) Special rule for short sales. If the trust sells the property referred to in subsection (a) in a short sale within the two-year period referred to in such subsection, such two-year period shall be extended to the date of the closing of such short sale.
- (e) Exceptions. Subsection (a) shall not apply to property:
  - (1) Acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of section 1014 of the Code), or
  - (2) Acquired by a pooled income fund (as defined in section 642(c)(5) of the Code), or
  - (3) Acquired by a charitable remainder annuity trust (as defined in section 664(d)(1) of the Code) or a charitable remainder unitrust (as defined in section 664(d)(2) and (3) of the Code), or
  - (4) If the sale or exchange of the property occurred after the death of the transferor.
- (f) Special rule for installment sales. If the trust elects to report income under section 453 of the Code on any sale or exchange to which subsection (a) applies, under rules adopted by the director of taxation:
  - (1) Subsection (a) shall be applied as if each installment were a separate sale or exchange of property to which such subsection applies, and
  - (2) The term "includible gain" shall not include any portion of an installment received by the trust after the death of the transferor."

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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\*Edited accordingly.

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1976.

(Approved May 6, 1977.)

ACT 48

H.B. NO. 374

A Bill for an Act Relating to Employment Security.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-38, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-38 Appeals, filing, and hearing.** The claimant or any other party entitled to notice of a determination or redetermination as herein provided may file an appeal from the determination or redetermination at the office of the department of labor and industrial relations in the county in which the claimant resides or in the county in which the claimant was last employed, within ten days after the date of mailing of the notice to his last known address, or if the notice is not mailed, within ten days after the date of delivery of the notice to him. The department may for good cause extend the period within which an appeal may be filed to thirty days. The appeal shall be heard in the county in which the appeal is filed, provided that the department may by its regulations provide for the holding of a hearing in another county with the consent of all parties or where necessary in order that a fair and impartial hearing may be had, and may provide for the taking of depositions. Unless the appeal is withdrawn with the permission of the referee, the referee after affording the parties reasonable opportunity for a fair hearing shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination or redetermination. The parties to any appeal shall be promptly notified of the decision of the referee and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and the decisions shall be final and shall be binding upon each party unless a proceeding for judicial review is initiated by the party pursuant to section 383-41; provided that, within the time provided for taking an appeal and prior to the filing of a notice of appeal, the referee may reopen the matter, upon the application of the director of labor and industrial relations or any other party, or upon his own motion, and thereupon may take further evidence or may modify or reverse his decision, findings, or conclusions. If the matter is reopened, the referee shall render a further decision in the matter either reaffirming or modifying or reversing his original decision, and notice shall be given thereof in the manner hereinbefore provided. Upon reopening, the referee who heard the original appeal shall reconsider the matter, except where he is no longer employed as a referee or he disqualifies himself from reconsidering his decision. The time to initiate judicial review shall run from the notice of such further decision, if the matter has been reopened."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 49

H.B. NO. 511

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-48, Hawaii Revised Statutes, is amended to read:

**"Sec. 171-48 Residence lots, requirements.** In the disposition of lots for residence purposes:

- (1) No person shall purchase or lease, directly or indirectly through an agent, nominee, third person, or otherwise, any interest in more than one lot.
- (2) No person and no unmarried minor child, whose parents or parent purchases or leases a lot, shall be qualified to purchase or lease any lot.
- (3) The board shall require the lessee or purchaser to construct, within three years after disposition, a dwelling of such size and value as shall be prescribed by the board and to use the lot and dwelling as his principal domicile; provided that the board may, for good and sufficient cause and to alleviate hardship, extend the building deadline for a period not exceeding two years, at six month intervals based on a demonstration of the lessee's or purchaser's progress towards satisfying improvement requirements.
- (4) The board shall establish such additional restrictions, requirements or conditions in accordance with the powers granted to it in section 171-6(6).
- (5) No person shall be qualified to purchase or lease any lot by drawing if his gross income including the gross income of his spouse exceeds \$20,000 per year. In determining gross income, the standard income tax exemption for each of his dependents, as determined by the income tax laws of the State, shall be allowed.
- (6) No person shall be qualified to purchase or lease any lot who, or whose spouse, or both of them, owns or is a lessee, under a residential lease for a term exceeding twenty years (including any periods for which the lease may be extended or renewed at the option of the lessee), of any land situated within or without the State suitable for residential use."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that many motorcycle and motor scooter riders are traveling on the highways of the State without really having learned the basics of handling such vehicles. Under the present system, it is possible and has become a practice, for motorcycle or motor scooter permittees to continuously renew a temporary instruction permit and operate the vehicle without any intention of seriously learning the machine to successfully pass the license examination. This type of practice abuses the concept of the instruction permit. It is the purpose of this Act to require persons desiring to renew temporary instruction permits to present evidence of their good faith.

SECTION 2. Section 286-110, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 286-110 Instruction permits.** (a) Any person who, except for his lack of instruction in operating a motor vehicle, would be qualified to obtain an operator's license issued under this part may apply for a temporary instruction permit at the office of the examiner of drivers in the county in which the applicant resides.

(b) The examiner of drivers shall, within ten days of the filing of the application, examine every applicant for an instruction permit. The examination shall include tests of the applicant's:

- (1) Eyesight and other physical or mental capabilities to determine if he is capable of operating a motor vehicle;
- (2) Understanding of highway signs regulating, warning, and directing traffic; and
- (3) Knowledge of the traffic laws, ordinances, or regulations of the State and the county where he resides or intends to operate a motor vehicle.

(c) If he is satisfied that the applicant is qualified to receive an instruction permit, the examiner of drivers shall issue the permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of ninety days; provided that an applicant who is registered in a driver training course shall be issued a temporary instruction permit for the duration of the course and the termination date of the course shall be entered on the permit.

(d) Except when operating a motor scooter or motorcycle, the holder of a temporary instruction permit shall be accompanied by a person licensed as an operator or driver of the category of motor vehicles in which the motor vehicle which is being operated belongs. The licensed person shall occupy a seat as near the permit holder as is practical while the motor vehicle is being so operated.

(e) No holder of a temporary instruction permit shall operate a motorcycle or a motor scooter during hours of darkness or carry any passengers.

(f) No holder of a temporary instruction permit for the operation of a motorcycle or motor scooter shall have the permit renewed more than once, nor shall the holder be issued another temporary instruction permit for the same

purpose, unless he has taken the examination for a motorcycle or motor scooter license at least once prior to the expiration of the second temporary instruction permit and at least once prior to the expiration of each subsequent temporary instruction permit issued thereafter. If the holder of a temporary instruction permit fails to meet the requirements of this Section, he shall not be permitted to apply for another temporary instruction permit for a motor scooter or motorcycle for a period of three months. Nothing in this subsection shall affect the rights and privileges of any holder of a temporary instruction permit for the operation of a motorcycle or motor scooter from obtaining a temporary instruction permit or driver's license for the operation of any other type of motor vehicle."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 51

H.B. NO. 632

A Bill for an Act Relating to the Employees' Retirement System of the State of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-51, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-51 Membership service generally.** Membership service includes

- (1) Service by an employee rendered since becoming a member;
- (2) Service rendered prior to becoming a member but (A) subsequent to January 1, 1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county;
- (3) Service as an employee of the federal government where the function carried on by said government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
- (4) Service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that (A) the employee was a member of the system immediately preceding the time he renders such service; (B) the employee reenters the service of the State or county within one year after termination of such service; and (C) the employee has, to the satisfaction of the board of trustees, waived his right to any credit under the Civil Service Retirement Act (5 USCA 2251) based upon such service; provided, further, that credit for such service shall not exceed eight years;

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\*Edited accordingly.

- (5) Service as an employee of the Hawaii territorial guard;
- (6) Service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay;
- (7) Service between the years 1941 and 1947 with federal defense agencies, where the employee was employed by the government before the war-time service, went into defense work at the direction of his employer, and returned to government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board of trustees;
- (8) Service, not exceeding four years, in the military service of the United States during the period 1941-1949 rendered by an employee who was employed by the Territory or county prior to his induction into the military and who subsequently returned to employment of the Territory or county following his discharge;
- (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u General Hospital, Puunene Hospital, Waimea Hospital, Waimea, Kauai, Haliimaile Dispensary, and Paia Hospital.
- (10) Service rendered prior to becoming a member as a full-time sheriff or deputy sheriff in the office of the sheriff.

Membership service shall only be credited for any period for which the member makes the required contributions to the system."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 52

H.B. NO. 813

**A Bill for an Act Relating to Leaves for Officers or Employees on Loan to Other Governments.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 79-17, Hawaii Revised Statutes, is amended to read as follows:

**"Section 79-17 Leave for officers or employees on loan to other governments or for government programs administered by private or public agencies; retention of rights.** Notwithstanding the limitations of any other law to the contrary, upon the request of the governor of American Samoa, the governor of Guam, or the High Commissioner of the Trust Territory, the Federal Government by any of its duly authorized representatives or agencies, or by the director of the Hawaii Office of Economic Opportunity for any program related

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\*Edited accordingly.

to the Economic Opportunity Act of 1964, or the United Nations by its duly authorized official or representative, for the services on a loan basis of any particular officer or employee of the State, or of any of the counties, the governor, or the mayor of the city and county of Honolulu, or the chairman of the board of supervisors of any of the other counties, or the chairman of an independent board or commission having charge of its own funds, may grant to any officer or employee who has attained tenure or permanent status, who desires to participate in any employment loan program and who has submitted a written application therefor, a leave of absence to be employed by such requesting government for a period not to exceed two years. The officer or employee, while serving the other government on a loan basis during his leave of absence, shall retain membership and all rights in the [classified] public service and in the employees' retirement system as though he had remained in the service of the State or of any county thereunder; provided, that he return to his former position within ninety days after the termination of his contract with the other government. Upon his return from the loan to state or county employment, as the case may be, he shall be reinstated to the position he left and shall be entitled to such compensation as he would have then been entitled had he remained in the service of the State or any county thereunder.

No officer or employee participating in the loan program shall hold the State or any of counties under the State liable for any compensation for work performed for another government while on loan from the State during the leave of absence, nor for any transportation costs incurred in proceeding to and returning from the loan employment destination."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 53

H.B. NO. 829

A Bill for an Act Relating to the Enrichment of Bread and Flour.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 328-71, Hawaii Revised Statutes, is amended in the following ways:

1. By amending the definition of "flour" to read as follows:

- "(1) "Flour" is limited to the foods defined as (A) flour, white flour, wheat flour, plain flour, (B) bromated flour, (C) self-rising flour, self-rising white flour, self-rising wheat flour, and (D) phosphated flour, phosphated white flour, and phosphated wheat flour, in the definitions and standards of identity promulgated by the Federal Food and Drug Administration (21CFR Part 15), or as they may be amended, but does not include special flours not used for bread, roll, bun, or biscuit baking, such as specialty cake, pancake, and pastry flours;"

2. By amending the definition of "enriched" to read as follows:

- "(2) "Enriched" as applied to flour means the addition to flour of the vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of identity of enriched flour, or enriched bromated flour or enriched self-rising flour, as the case may be, promulgated by the Federal Food and Drug Administration (21CFR Part 15), or as the same may be from time to time amended or modified;"

SECTION 2. Section 328-73, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 328-73 Bread, rolls, buns, standard for.** It shall be unlawful for any person to manufacture, bake, sell, or offer for sale, in this State, for human consumption therein, any white bread or rolls unless the same conforms to the definition and standard of identity then in effect for enriched bread, and enriched rolls, or enriched buns, as fixed and established by order of an appropriate federal agency or officer, pursuant to the Federal Food, Drug, and Cosmetic Act; provided that if during any period no such order of any such federal agency or officer fixing and establishing a definition and standard of identity for enriched bread, and enriched rolls or enriched buns, is in effect, it shall be unlawful for any person during any such period to manufacture, bake, sell, or offer for sale in this State, for human consumption, any white bread or rolls unless the same conforms to the proposed definition and standard of identity for enriched bread and enriched rolls or enriched buns promulgated by the Federal Food and Drug Administration (21CFR Part 17), or as the same as may be from time to time amended or modified."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 54

H.B. NO. 1070

A Bill for an Act Relating to the Responsibility of a Vessel Owner for Unauthorized Mooring or Placement in the State.

*Be It Enacted by the Legislature of the State of Hawaii.*

SECTION 1. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 266- Responsibility of a vessel owner; registration, documentation or other identification as prima facie evidence as to unauthorized mooring or placement.** In any proceeding for violation of any statute or any rule adopted by the department pursuant to chapter 91 governing the mooring or placement of a vessel in the State, proof of ownership through:

\*Edited accordingly.

- (1) the State registration number; or
- (2) the documented name or number of a vessel; or
- (3) any other identifying name or number;

affixed to a vessel involved in such violation shall constitute prima facie evidence that the owner of the vessel was the person who moored or placed the vessel at the point where, and during the time when, such violation occurred."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 55

H.B. NO. 1221

A Bill for an Act Relating to Marine Conservation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-57, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 188-57 Certain crustaceans protected; penalty.** It shall be unlawful for any person to take, kill, sell, or offer for sale, or have in possession any Kona crabs or any of the native lobsters, known as ula, or ula-papapa, taken from the waters within the jurisdiction of the State during the months of June, July, and August. The possession of any Kona crabs or any native lobster known as ula or ula-papapa, by any person during the months of June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any dealer may sell, or any hotel or other public eating house may serve Kona crabs or lobsters lawfully caught during the open season by first procuring a license granting this privilege.

Licenses to sell or serve Kona crab or lobster during June, July, and August shall be issued by the department of land and natural resources upon the payment of \$5 by wholesale dealers, \$2.50 by retail markets, and \$1 for any hotel or other class of restaurant; provided that each license holder must submit a report to the department within five days after the end of each of the months on blanks furnished by the department, which report must give the name of the person or firm from whom the Kona crabs or lobsters were purchased, to whom sold, the number and weight bought or sold and the number and weight on hand the first and last day of each month.

Any person violating this section shall be fined not less than \$100 nor more than \$500, or imprisoned not less than five days nor more than fifty days, or both."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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\*Edited accordingly.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 56

H.B. NO. 1425

A Bill for an Act Relating to the Department of Health, Environmental Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The Legislature finds that it is in the interest of the State to have made available to the Legislature and the public information on the quality of our coastal waters. The Legislature further finds that such information on the quality of our coastal waters is an essential aid in the legislative decision-making process directed at enhancing the physical, biological, and chemical quality of our Hawaiian waters. The understanding of the quality of our coastal waters by the public will help engender an awareness of the necessity of water pollution controls. Reports that include information on the description of the sampling programs and methods used, and a discussion of the implications of any findings for recreational uses, establishment of marine sanctuaries, waste disposal, and marine industries are important to the understanding of environmental controls.

**SECTION 2.** Section 342-32, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 342-32 Powers and duties, specific.** In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate water pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule or regulation water quality standards, effluent standards, treatment and pretreatment standards, and standards of performance for specific areas and types of discharges in the control of water pollution, thereby allowing for varying local conditions;
- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in any business or undertaking whose waste, sewage, or drainage is polluting or may tend to pollute state waters;
- (4) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of water pollution, the purity and potability of water and the means to monitor the quality of water, or to effect the proper disposal of sewage, drainage, and waste;
- (5) Conduct and supervise state educational and training programs on water pollution prevention, control, and abatement, including the preparation and distribution of information relating to water pollution;
- (6) Consult and advise persons intending to alter or to extend any system of drainage, sewage, or water supply;

- (7) Require complete and detailed plans or reports, on existing works, systems, or plants, and of any proposed addition to, modification of or alteration of any such works, system or plant which contain the information requested by the director in the form prescribed by him; which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner;
- (8) With the approval of the governor, cooperate with, and receive money from the federal government, or any political subdivision of the State or from private sources for the study and control of water pollution;
- (9) Receive or initiate complaints of water pollution, hold hearings in connection with water pollution, and institute legal proceedings in the name of the State for the prevention, control, or abatement of water pollution.
- (10) Require the owner or operator of any effluent source or any discharger of effluent to (A) establish and maintain records; (B) make reports; (C) install, use and maintain monitoring equipment or methods; (D) sample effluent and state waters; and (E) provide such other information as the department may require.
- (11) Require any permittee or holder of a variance to permit the director or his authorized representative upon the presentation of his credentials:
  - (A) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under the terms and conditions of the permit or variance; and
  - (B) To inspect any monitoring equipment or method required in the permit; and
  - (C) To sample any discharge of pollutants.
- (12) Publish an annual report on the quality of the State waters, which annual reports shall include, but not be limited to, (A) a description of sampling programs and quality control methods procedures; (B) statistical analysis and interpretation of the data on an annual basis by specific points (monitoring stations); (C) discussion of the results of these analyses to the extent that the implications can be understood by the general public; (D) recommendations for the modification of the water quality monitoring program to enhance its effectiveness for maintaining high standards of water quality in the State of Hawaii, and (E) a note of any significant changes in the quality of State waters."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

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\*Edited accordingly.

## ACT 57

H.B. NO. 1683

A Bill for an Act Relating to the Boating Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 267-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 267-12 Fees and charges.** (a) Except for vessels for which fees and charges are provided in subsection (b), for each vessel required to be registered and numbered by section 267-11, the department of transportation shall assess and collect from the owner the following fees and charges:

- (1) Initial registration fee. For the issuance of an original certificate:
    - (A) For each vessel twenty feet or less in length, \$4.
    - (B) For each vessel more than twenty feet in length, \$10.
    - (C) For each amphibious vehicle licensed as a motor vehicle, \$4.
  - (2) Annual certificate renewal fee. For the annual renewal of a certificate:
    - (A) For each vessel twenty feet or less in length, \$3.
    - (B) For each vessel more than twenty feet in length, \$8.
    - (C) For each amphibious vehicle that is licensed as a motor vehicle, \$3.
  - (3) Reregistration fee. For the reregistration of a vessel, after a certificate has been canceled or voided, the appropriate amount provided in subsection (a) (1).
  - (4) Transfer fee. For the transfer of a certificate, \$3.
  - (5) Certificate and registration sticker replacement fee. For the issuance of a replacement certificate or a replacement set of vessel registration stickers, \$1.
  - (6) Certificate modification fee. For modifying a certificate, \$3.
  - (7) Penalty charges for late registration, etc. For each month or fraction thereof that a registration, renewal, reregistration or transfer is delinquent, one-tenth of the appropriate fee shall be added to the normal fee.
  - (8) Exemptions. The department may reasonably establish, by rules and regulations, exemptions from the fees required by this section.
- (b) For a vessel owned by or operated under the custody or control of a boat manufacturer or boat dealer, the manufacturer or dealer shall pay, in lieu of the fees and charges provided for in subsection (a):
- (1) Boat manufacturer and boat dealer certificate fee. For each certificate, a fee of \$10.
  - (2) Annual certificate renewal fee. For the annual renewal of a certificate, a fee of \$8.
  - (3) Certificate reissuance. For the reissuance of a certificate after a certificate has been canceled or voided, a fee of \$10.
  - (4) Certificate and registration sticker replacement fee. For the replacement of a certificate or registration sticker, a fee of \$1."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

ACT 58

H.B. NO. 1711

A Bill for an Act Relating to Measurement Standings and Increased Utilization of the Metric System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The title to Chapter 486, Hawaii Revised Statutes, is amended to read:

**"MEASUREMENT STANDARDS AND  
UNIFORM PACKAGING AND LABELING"**

SECTION 2. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "commodity in package form" to read:

"(2) "Commodity in package form" means a measure of a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of measure, is a commodity in package form."

SECTION 3. Section 486-7, Hawaii Revised Statutes, is amended by amending the definitions of "director" and "deputy director" to read:

"(5) "Director of measurement standards", "deputy director of measurement standards" and "deputy to the chairman" mean, respectively, the state director of measurement standards, the state deputy director of measurement standards and the deputy to the chairman of the board of agriculture and may be referred to hereafter as the director, deputy director, and deputy to the chairman of the board of agriculture, respectively."

SECTION 4. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "gasoline" to read:

"(6) "Gasoline" means any product which conforms to the standards as established by the American Society for Testing and Materials, or the United States Environmental Protection Agency or any successor agency."

SECTION 5. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "inspector" to read:

"(8) "Inspector" means any qualified State officer or employee designated

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\*Edited accordingly.

by the director as an inspector."

SECTION 6. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "lubricating oil" to read:

"(12) "Lubricating product" means those products which are intended for use in internal combustion engines, or for purposes of lubrication, and which as established by the American Society for Testing and Materials, or the Society of Automotive Engineers, or their successor agencies. Lubricating product containers shall be marked so as to disclose whether the contents have previously been used for any other lubricating purposes, or have been re-run, filtered, redistilled, re-claimed, or re-refined or in any other manner reprocessed or re-blended."

SECTION 7. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "octane number or octane rating" to read:

"(16) "Octane index" means the resultant of the RON (Research Octane Number) plus MON (Motor Octane Number) divided by two."

SECTION 8. Section 486-1, Hawaii Revised Section, is amended by amending the definition of "petroleum product" to read:

"(18) "Petroleum product" shall have the meaning established under chapter 486D."

SECTION 9. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "standard test" or "standard method" to read:

"(21) "Standard test" or "standard method" means any test or method conducted or prescribed in accordance with the latest published standards, as provided in section 486-1 ( ) and as approved by rule of the director."

SECTION 10. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "vehicle tank" to read:

"(23) "Vehicle tank" means any tank, which is mounted on a vehicle and is intended for use as a measure per se."

SECTION 11. Section 486-1, Hawaii Revised Statutes, is amended by amending definition of "weight certificate" to read:

"(24) "Certificate of measure" means a certificate of measure issued in compliance with this chapter, and shall be prima facie evidence of the accuracy of the amount shown."

SECTION 12. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of "weights and measures" to read:

"(25) "Measure" means all measures of every kind, including but not limited to weights, mass, lengths, volume, and count; instruments and devices for measuring; and any appliances and accessories associated with any or all such instruments and devices."

SECTION 13. Section 486-1, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately designated and to read:

"( ) "Measurement standard" includes any standard or definition or model or reference or measurement recommended by the United States

Metric Board. As established by the Secretary of Commerce, including weights and measures, or any other artifact or reproducible definition of a unit of measure, including those of the SI; and including the definition of a lot, a sample, and applicable tolerances, as may be established by the director. Such measurement standards, insofar as they may be traceable, shall conform if appropriate to their counterpart at the National Bureau of Standards, the American Society for Testing and Materials, the American National Standards Institute, the American National Metric Council, the International Standards Organization, the International Organization of Legal Metrology and the International Bureau of Weights and Measures."

"( ) "Metric system" means the SI or International System of Units, as established by the General Conference of Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce. The modernized metric system is identified by the capital letters "SI" in all languages. Whenever the term "metric" or "metric system" or "metric system of measurement" is used, it shall mean "SI".

SECTION 14. Section 486-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-2 Systems of measurements.** The United States customary system of weights and measures and the metric system of measurements are jointly recognized, and either one or both shall be used by rule of the director for all measurement purposes in the State. The definitions of basic units of measure, the tables of measure, and measure equivalents, the specifications, tolerances and other technical requirements for measuring devices, as published by the National Bureau of Standards, in handbook 44, current edition, and adopted, or modified and adopted by the director, together with the measurement standards provided for herein, are recognized and shall govern measurement standards, measuring equipment and measuring transactions in the State."

SECTION 15. Section 486-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-4 State measurement standards.** The State measurement standards shall be in conformity with the measurement standards of the United States. As applicable, they shall have been calibrated for such use by the National Bureau of Standards or other appropriate agency and shall be maintained in such calibration, as is now or may hereafter be prescribed by that bureau or agency or any successor agency, by and within the laboratory of the State division of measurement standards. They shall not be removed from that laboratory except upon request of the National Bureau of Standards or other appropriate or successor agency for calibration audit provided that they may be relocated for the convenience of the State by directive of the governor."

SECTION 16. Section 486-6, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-6 State director, deputy director, deputy to the chairman, inspectors and measurement standards personnel.** There is hereby established a division of measurement standards. The chairman of the board of agriculture shall be the state director of measurement standards. The director shall appoint a

deputy director of measurement standards, who shall head and administer the division and such technical and clerical personnel as are necessary to carry out this chapter. The deputy director shall be subordinate to the deputy to the chairman."

SECTION 17. Section 486-7, Hawaii Revised Statutes, is repealed.

SECTION 18. Section 486-8, Hawaii Revised Statutes is amended to read:

**"Sec. 486-8 General powers and duties of director.** The director shall have the custody of the state measurement standards including the other standards and equipment provided for by this chapter, and shall keep accurate records of the same. The director shall enforce this chapter. He shall have and keep a general supervision over the measurement standards established, and measures offered for sale, sold, or in use in the State. He shall annually, as established by directive of the governor, make to the governor a report on all of the activities of the division of measurement standards."

SECTION 19. Section 486-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-9 Specific powers and duties of the director; regulations.** The director shall issue from time to time reasonable regulations for the enforcement of this chapter. These regulations shall have the force and effect of law and shall govern the use or application of measurement standards and measuring transactions in the State. These regulations may include:

- (1) Standards of net measure, and reasonable standards of fill for any commodity in package form,
- (2) Rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used, by inspectors and measurement standards personnel in the discharge of their official duties,
- (3) Exemptions from the sealing, labeling, marking, or other requirements of this chapter,
- (4) Rules governing the voluntary registration of servicemen and service agencies,
- (5) Schedules and fees for licensing commercial measuring devices and measurement standards for testing or certification,
- (6) Specifications, tolerances, and other technical requirements with respect to the packaging, handling, storing, advertising, labeling, dispensing, and selling of petroleum products which the director deems necessary for the protection of the consumer,
- (7) Rules to assure that amounts of commodities or services sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest, and
- (8) Such other rules or regulations as he deems necessary for the enforcement of this chapter; such rules and regulations being consistent with State and federal policy.

These regulations shall include specifications, tolerances and other technical requirements designed to eliminate from use those measures and measurement

standards:

- (A) That are not accurate,
- (B) That are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or
- (C) That facilitate the perpetration of fraud.

In addition the director shall promulgate rules relating to SI definitions, standards, tolerances, use, applicability, units and any other rule not inconsistent with the recommendations of the United States Metric Board or the Secretary of Commerce. The specifications, tolerances, and other technical requirements for measuring devices as recommended and published by the National Bureau of Standards in handbook 44, current edition, or any of the standards setting bodies identified under section 486-1( ), together with regulations issued by the director under authority of this chapter, shall be the specifications, tolerances, and other technical requirements for measures and measurement standards of the state.

The director may, pursuant to chapter 91, adopt, in whole or in part, any amendment or supplement to the National Bureau of Standards publication or any subsequent or similar publication by such bureau, or its successor, and any measurement standard published by the standards setting bodies identified under section 486-1 ( ). For the purpose of this chapter, a measure and measurement standard is "correct" when it conforms to all applicable sections of this chapter or to such regulations promulgated pursuant thereto; all other measures and measurement standards are "incorrect".

SECTION 20. Section 486-10, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-10 Testing at state-supported institutions.** The director shall from time to time test all measures used in establishing or verifying any other measurement, including any measure or measurement standard used in checking the receipt or disbursement of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, reporting his findings, in writing, to the supervisory board and to the executive officer of the institution concerned."

SECTION 21. Section 486-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-11 General testing.** Unless otherwise provided by law, the director shall inspect and test, to ascertain if they are correct, all measurement standards and measuring devices kept, offered, or exposed for sale, sold or in use in the state. The director may, as often as he deems necessary, inspect and test, to ascertain if they are correct, all measurement standards and measuring devices used (1) in determining the measurement of commodities or things sold, or offered or exposed for sale, on the basis of measure; (2) in computing the basic charge or payment, including taxes, for services rendered on the basis of measure; (3) in determining measurement when a charge is made for such determination, including the payment of any associated tax; provided, that in

compliance with a regulation of the director, tests may be made on representative samples of such commodities or things or devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples, and provided, that with respect to single-service devices designed to be used commercially only once and to be then discarded or with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing requirements of this section will be satisfied when inspections and tests are made on representative samples of such devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples."

SECTION 22. Section 486-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-13 Inspection of packages.** The director shall measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered, or exposed for sale or sold in accordance with law. When such packages or amounts of commodities are found not to contain the amounts represented, or are found to be kept, offered, or exposed for sale in violation of law, the director may order them off sale and may mark or tag them to show them to be illegal. The director may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall (1) sell, or keep, offer or expose for sale, in intrastate commerce, any package or amount of commodity in package form unless, or in the case where a package or amount of commodity in package form has been ordered off sale or marked or tagged as provided in this section, unless and until such package or amount of commodity in package form is or has been brought into full compliance with all legal requirements, or (2) dispose of any package or amount of commodity in package form that has been ordered off sale or marked or tagged as provided in this section and that has subsequently been brought into full compliance with all legal requirements, until written authorization for such disposal has been issued by the director; provided that nothing in this section shall prohibit the director from authorizing disposal under sub-paragraph (2) of this section or section 486-14, when, in his discretion, the best interest of the public will be served by such authorization."

SECTION 23. Section 486-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-14 Stop-use, stop-removal, stop movement and removal orders.** The director may issue stop-use orders, stop-removal orders, stop movement and removal orders with respect to measures and measurement standards being, or susceptible of being, commercially used, and issue stop-removal orders, stop movement and removal orders with respect to packages or amounts of commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the law he deems it

necessary or expedient to issue such orders, and no person shall use, remove or move from the premises specified, or fail to remove from the premises specified, any measure, measurement standard, package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, stop movement or removal order issued under the authority of this section."

SECTION 24. Section 486-15, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-15 Disposition of correct and incorrect apparatus.** The director shall approve for use, and seal or mark with appropriate devices, such measures and measurement standards as he finds upon inspection and test to be "correct" as defined in section 486-9, and shall reject and mark or tag as "rejected" such measures and measurement standards as he finds, upon inspection or test, to be "incorrect" as defined in section 486-9, provided, that such sealing or marking shall not be required with respect to such measures and measurement standards as may be exempted therefrom by a regulation of the director, issued under the authority of section 486-9. Measures and measurement standards that have been rejected may be confiscated and may be destroyed by the director if not corrected as required by section 486-18, or if used or disposed of contrary to the requirements of section 486-18. In carrying out this section, the director may use such terms as "rejected," "accepted," "incorrect," "correct," "inaccurate," "accurate," "tested," "approved," "certified," or terms of similar import on marks or tags or certificates, as necessary, to convey to all interested parties the condition or state of the device or apparatus so marked or tagged. Any such mark or tag shall be subject to section 486-9."

SECTION 25. Section 486-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-16 Enforcement; citation and notice to appear; penalty; right of entry and inspection; stopping vehicles.** The director, deputy director, deputy to the chairman and any authorized inspector or other authorized measurement standards personnel may, upon arresting any person for violation of this chapter, including rules and regulations promulgated thereunder, take the name, address, and any other pertinent information of such person and issue to him a citation and notice to appear, printed in the form hereinafter described, and answer to the charge against him at a certain place and at a time within seven days after such arrest.

There shall be a form of citation and notice to appear for use in citing violators of this chapter and the rules and regulations promulgated by the director which do not mandate the physical arrest of such violators. The citation and notice to appear shall be printed in a form commensurate with the form of other citations and notice to appear used in modern methods of arrest and shall be designed to include all necessary information. The form and contents of the citation and notice to appear shall be as adopted or prescribed by the district courts.

In every case when a citation and notice to appear is issued, the original of the same shall be given to the violator; provided, that the district courts may

prescribe the issuance to the violator of a carbon copy of the citation and notice to appear and provide for the disposition of the original and any other copies. Every citation and notice to appear shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

Any person who fails to appear at the place and within the time specified in the citation and notice to appear issued to him shall be fined not more than \$500 or imprisoned not more than six months, or both, regardless of the disposition of the charge of which he was originally arrested.

In the event any person fails to comply with the citation and notice to appear given on such person, or if any person fails or refuses to deposit bail as required and within the time permitted, the arresting officer or employee who issued the citation shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest.

The director may seize, without formal warrant, incorrect or unsealed measures, measurement standards, or amounts or packages of commodity found to be used, retained, offered, or exposed for sale or sold in violation of law.

The director may stop any vehicle subject to this chapter and require the driver to move the vehicle to a designated place for inspection.

The director may, in the public interest, serve suitable notices or warnings rather than resorting to prosecution for minor violations.

The director may enter and go into or upon at any reasonable time, without formal warrant, in accordance with the law, any structure, premises, or any other place where commercial transactions or articles subject to this chapter are being conducted or located.

When a complaint is made to any prosecuting officer of the violation of this chapter, including any rules and regulations promulgated thereunder, the arresting officer or employee who issued the citation and notice to appear shall subscribe to it under oath administered by another official whose name has been submitted to the prosecuting officer and who has been designated by the director to administer the same."

SECTION 26. Section 486-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-17 Powers and duties of deputy director and inspector; and other measurement standards personnel.** The director may delegate any of his powers and duties to the deputy director which he shall deem necessary and proper to carry out the provisions of this chapter. The deputy director may similarly delegate any of his authority and responsibility to the inspectors or other measurement standards personnel when such delegation is deemed necessary for the efficient and effective enforcement of this chapter."

SECTION 27. Section 486-18, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-18 Duties of owners of incorrect apparatus.** Measures and measurement standards that have been rejected under the authority of the director shall remain subject to the control of the rejecting authority until such time as they have been type approved for use, by the director, as provided under

section 486-15 or until suitable repair or disposition thereof has been made as required by this section. The owners of the unapproved or rejected measures or measurement standards shall cause the same to be type approved or made correct within thirty days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Measures and measurement standards subject to this chapter that have not been type approved or that have been rejected shall not be used until they have been officially type approved or reexamined and found to be correct or until specific written permission for such use is issued by the rejecting authority, or until the rejection tag has been removed and the rejected device or apparatus repaired or corrected and placed in service by a person duly registered to perform the acts under a regulation issued by the director for the registration of measures servicemen and service agencies."

SECTION 28. Section 486-19, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-19 Method of sale of commodities; general.** Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this chapter, commodities not in liquid form shall be sold only by weight, mass, volume, length, area, or by count; provided, that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold; and provided further, that the provisions of this section shall not apply, if exempted by a regulation of the director, (1) to commodities when sold for immediate consumption on the premises where sold, (2) to vegetables when sold by the head or bunch, (3) to commodities in containers standardized by a law of this state or by federal law, (4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (5) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (6) to unprocessed vegetable and animal fertilizer when sold by cubic measure. The director may issue such reasonable regulations as may be necessary to assure that the measure of any commodity for sale reflects accurate and fair practices to all concerned."

SECTION 29. Section 486-20, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-20 Packages; declarations of quantity and origin; variations; exemptions.** Except as otherwise provided in this chapter, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce, shall bear on the outside of the package such definite, plain, and conspicuous declarations of (1) the identity of the commodity in the package, (2) the net quantity of the contents in terms of measure, and (3) in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed, the name and place of business of the

manufacturer, packer, or distributor, as may be prescribed by regulation issued by the director; provided, that, in connection with the declaration required under item (2) above, neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of measure (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in a package shall be used; and provided further, that under item (2) above the director shall, by regulation, establish (A) reasonable variations to be allowed, which may include variations from the declared measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in a change in measure, (B) exemptions to small packages, and (C) exemptions as to commodities put up in variable measures for sale intact and either customarily not sold as individual units or customarily measured at time of sale to the consumer."

SECTION 30. Section 486-21, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-21 Declarations of unit price on random packages.** In addition to the declarations required by section 486-20, and commodity in package form, the package being one of a lot containing random measure of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of measure."

SECTION 31. Section 486-23, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-23 Advertising packages for sale.** Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package; provided, that, where the law or regulation requires a dual declaration of net quantity to appear on the package, only the declaration that sets forth the quantity in terms of the smaller unit of measure (the declaration that is required to appear first and without parentheses on the package) need appear in the advertisement; and provided further, that there shall not be included as part of the declaration required under this section such qualifying terms as "when packed," "minimum," "not less than," or any other terms of similar import, nor any term qualifying a unit of measure (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package."

SECTION 32. Section 486-24, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-24 Sale by net measure.** The word "measure" as used in this chapter in connection with any commodity in package form shall mean net measure."

SECTION 33. Section 486-25, Hawaii Revised Statutes, is amended to

read:

**"Sec. 486-25 Misrepresentation of price.** Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by measure, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of measure includes a fraction of a cent, all numerals expressing the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents."

SECTION 34. Section 486-26, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-26 Bulk deliveries sold in terms of measure.** When a commodity is purchased in bulk and the commodity is sold in terms of measure, the delivery of such commodity shall be accompanied by a "certificate of measure," in a form prescribed by the director, and shall contain at least the following information:

- (1) Name and address of the vendor,
- (2) Name and address of the purchaser,
- (3) The net quantity of the delivery, and
- (4) The date, time and place of quantity determination and the name of the person who made such determination.

The director may by regulation require any additional data that will assure positive accurate description of the quantities determined."

SECTION 35. Section 486-27, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-27 Measure master's license, fee; regulations; offenses; penalties.** The director may issue licenses to a qualified measure master. For the purpose of this section, a measure master is a person who is licensed to issue certificates of measure. An annual license fee of \$20 shall be paid and the fee shall be deposited into the general fund. The director may provide by regulation for the exemption of state or county employees who qualify as a measure master from payment of the license fee.

The director may pursuant to chapter 91 adopt rules and regulations governing, but not limited to, the following subject matter:

- (1) Qualifications as to age, character, ability to measure, experience, and education of a measure master;
- (2) Creation of a seal to be utilized by a measure master;
- (3) Execution requirements of a certificate of measure;
- (4) Bonding;
- (5) Record keeping;
- (6) Prohibited acts;
- (7) Suspension and revocation of a license;
- (8) Such other matters that will effectuate the purpose of this section.

Any person who (1) requests a measure master to measure any property, produce, commodity, or article falsely or incorrectly, (2) requests a false or

incorrect certificate of measure, or (3) issues a certificate of measure simulating, forging, or duplicating the certificate of measure as set forth in section 486-26 and who is not a measure master, shall be fined not less than \$500 or imprisoned not less than three months, or both.

Any measure master who falsifies a certificate of measure, or who delegates his authority to any person who is not a measure master, or who preseals a certificate of measure with his official seal before performing the act of measuring, shall be fined not less than \$1,000 or imprisoned not less than six months, or both.

Any person who violates any provision of this section or any rule or regulation adopted pursuant thereto for which no specific penalty has been provided shall be fined not less than \$100 nor more than \$500."

SECTION 36. Section 486-30, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-30 Offenses and penalties.** Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in paragraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment for not more than three months, or both; and upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than \$50 or more than \$500, or by imprisonment for not more than one year, or both.

- (1) Use or have in possession for the purpose of using for any purpose specified in section 486-11, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect or unapproved measure or measurement standard or any device or instrument used to or calculated to falsify any measure.
- (2) Use, or have in possession for the purpose of current use for any purpose specified in section 486-11, an unapproved or approved measure or measurement standard that does not bear a seal or mark such as is specified in section 486-15, unless such measure or measurement standard has been exempted from testing by the provisions of section 486-9 or 486-11 or by a regulation of the director issued under the authority of section 486-9, or unless the device has been placed in serve\* as provided by a regulation of the director issued under the authority of section 486-11.
- (3) Dispose of any rejected or condemned measure or measurement standard in a manner contrary to law or regulation.
- (4) Remove from any measure or measurement standard, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.
- (5) Sell, or offer or expose for sale, less than the quantity he represents of any commodity, thing, or service.
- (6) Take more than the quantity he represents of any commodity, thing, or service when, as buyer, he furnishes the measure or measurement

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\*Probably should read "service."

standard by means of which the amount of the commodity, thing, or service is determined.

- (7) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or regulation.
- (8) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a measure that is not so positioned that its indications may be accurately read and the measuring operation observed from some position which may reasonably be assumed by a customer.
- (9) Violate any provision of this chapter or the regulations promulgated under this chapter for which a specific penalty has not been prescribed."

SECTION 37. Section 486-33, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-33 Presumptive evidence.** For the purpose of the effective enforcement of this chapter, proof of the existence of a measure or measurement standard in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall, in the absence of conclusive evidence to the contrary, be "presumptive proof of the susceptibility of commercial use" of such measure or measurement standard."

SECTION 38. Section 486D-1, Hawaii Revised Statutes, is amended by amending the definitions of "director" and "deputy director" and to add the definition of "deputy to the chairman" to read:

- (4) "Director," "deputy director" and "deputy to the chairman" mean, respectively the state director of measurement standards, the state deputy director of measurement standards and the deputy to the chairman of the board of agriculture as provided for in section 486-6."

SECTION 39. Section 486D-1, Hawaii Revised Statutes, is amended by amending the definition of "division" to read:

- (5) "Division" means the state division of measurement standards."

SECTION 40. Section 486D-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 486D-4 General powers and duties of directors.** The director shall enforce this chapter, through the division of measurement standards. The director shall keep accurate records of all petroleum transactions and report on them annually to the governor."

SECTION 41. Section 292-2, Hawaii Revised Statutes, is amended by amending the definition of "director" to read:

- "(3) "Director" means the director of measurement standards, or his designated representative."

SECTION 42. Section 292-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 292-13 Disclosure requirements.** All certificates of ownership, as issued by the respective counties, shall by license year 1980 be standardized in a

form to be prescribed by the director of administrative services for district courts, and such certificates shall have on the reverse side thereof space for entering endorsements, among other requirements established under section 286-47. Each certificate shall have, in printed form on the bottom of the reverse side, the following statement: "The information entered hereon includes the license number and odometer indication on the date of title transfer of the passenger car described hereon; it is accurate to the best of my knowledge and I understand an inaccurate statement may make me liable to the transferee (buyer), pursuant to Chapter 292, Hawaii Revised Statutes, and Section 409(A) of the Federal Motor Vehicle Information and Cost Savings Act of 1972. My signature hereon constitutes personal knowledge that any false or incomplete data may create a liability, in civil action to transferee (buyer) and in criminal action under statute cited."

SECTION 43. Section 328-2, Hawaii Revised Statutes, is amended by amending the definition of "principal display panel" to read:

"Principal display panel" means that part, or those parts of a package or label that is, or are, so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display and purchase.

Whenever the principal display panel of the package is not coincident with the principal display panel of the label, the principal display panel of the package shall govern the declaration of quantity type size and the principal display panel of the label shall govern its location.

Whenever a difference of opinion exists as to which panel of a package constitutes the principal display panel, the larger panel most likely to be displayed shall be so construed.

Whenever a consumer package has more than one principal display panel, each such panel shall bear all mandatory information required by this part and the Federal Act."

SECTION 44. Section 328-2.1, Hawaii Revised Statutes, is repealed.

SECTION 45. **Employment rights unaffected by name changes.** No person currently employed by the division of weights and measures on a permanent basis, either through civil service or under a collective bargaining agreement, including exempt employees, shall in any manner be affected by the change in the division's name, except to the extent of the titular change occasioned by this act and the redefinitions herein contained.

The present deputy director of weights and measures shall become the state deputy director of measurement standards and shall continue to administer and head the division of measurement standards, and each inspector of weights and measures shall become an inspector, and all technical, secretarial, keypunch and clerical employees and metrologists shall remain similarly titled within the division of measurement standards, upon the effective date of this act, without any loss of rights, seniority, vacation, tenure, sick leave or other accrued right or pay status.

SECTION 46. **Savings protection.** All rules and regulations currently in effect and promulgated under chapters 486, 486D, and 292, Hawaii Revised

## ACT 59

Statutes, in accordance with chapter 91, Hawaii Revised Statutes, shall, irrespective of their title or identification of the enforcement agency, remain in effect until such time as they may be amended or reratified, at which time the proper enforcement identification and titular changes shall be made.

SECTION 47. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 48. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

## ACT 59

S.B. No. 1369

A Bill for an Act Relating to Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 67-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 67-5 Sewers, limitations.** For the construction of sanitary sewerage systems the lands specially benefitted by such improvement shall be assessed according to the area of the lands within an improvement district at a rate to be set by the County to pay for a portion of the costs thereof, and the balance of the costs shall be borne by the county, except that, where the construction of any such system is initiated under section 67-14 or 67-15, the total cost thereof shall be assessed against the lands specially benefitted."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 7, 1977.)

## ACT 60

S.B. NO. 454

A Bill for an Act Relating to Banking.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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\*Edited accordingly.

**"Sec. 403- Branch bank at University of Hawaii Manoa Campus; procedure.** (a) In addition to the branch banks permitted by section 403-53, the director may issue a certificate as herein provided permitting the organization and maintenance of one branch bank on the Manoa Campus of the University of Hawaii.

(b) The director shall adopt rules pursuant to chapter 91 establishing forms and procedures for competitive bidding by banks to obtain the certificate authorized by this section.

(c) The certificate shall be issued to the petitioner that has been approved by the director pursuant to section 403-55.

SECTION 2. Section 403-53, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 403-53 Branch banks.** No bank or any officer or director, agent, or employee thereof, shall open or maintain any branch in the State or receive deposits or pay checks other than at its principal place of business or its established branches or such subsidiary collection offices as the director of regulatory agencies may approve, except as hereinafter authorized; provided that this section shall not apply to branch banks existent on July 1, 1931, and authorized to do business in the State; and provided further that nothing in this section shall authorize any bank to change the location of any branch bank except as authorized by the procedure hereinafter outlined for opening of branch banks.

Except as provided in section 403- , no bank shall be permitted to open or maintain in the district of Honolulu, in addition to the main office of the bank more than four branch banks (whether designated as branch banks or collection offices) within each of the zones described.

Zone I: extending from the western side of Nuuanu Avenue to the western limits of the district of Honolulu;

Zone II: extending from the eastern limits of Zone I to a line beginning at the sea and running along Kapahulu Avenue to the intersection of Kapahulu Avenue and Waialae Road, and thence following easterly on Waialae Road to St. Louis Drive, and thence along St. Louis Drive to Dole Street extension to the boundary between Manoa Valley and Palolo Valley, and thence along the boundary to the Koolau range;

Zone III: extending from the eastern limits of Zone II to the eastern limits of the district of Honolulu.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 7, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Civil Service for the Counties of Hawaii, Maui, and Kauai.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part III of Chapter 76, Hawaii Revised Statutes, is amended to read as follows:

**"PART III. CIVIL SERVICE FOR THE  
COUNTIES OF HAWAII, MAUI, AND KAUAI**

**§76-71 Department of civil service.** There shall be a department of civil service for each of the counties of Hawaii, Maui, and Kauai, which shall include a personnel director and a commission consisting of five members appointed by the mayor with approval of the council of the respective counties.

**§76-72 Commission; appointment; removal.** The members of the commission shall be persons who believe in applying merit principles to public employment. They shall be appointed as prescribed in section 76-71 and shall hold office for five years. Each appointment shall be for a term ending five years from the date of the expiration of the term for which the predecessor was appointed. Of the members appointed, one shall be selected from among persons employed in private industry in either skilled or unskilled laboring positions as distinguished from executive or professional positions. No member of the commission shall be eligible for a second appointment to the commission prior to the expiration of two years from the date his previous term as such member expired. A person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed for the remainder of the term. Each member shall serve until his successor has been appointed and qualified. Not more than three members of the commission shall belong to the same political party. The commission shall select a chairman from its membership annually.

Any commissioner may be removed by the mayor with the approval of the council, or, without the approval of the council, upon conviction of any felony or misdemeanor involving moral turpitude, or for neglect of duty or malfeasance in office.

**§76-73 Expenses.** When any member of the commission is required to travel to and from the site of a commission meeting or from any island to another island in the State in performance of the commission's duties, the commissioner shall be allowed reasonable traveling expenses.

**§76-74 Meeting, quorum.** The commission shall meet at least once each month at such places as are made available for such purposes by the mayor. The commission may meet at such other times as may be designated in advance by it, its chairman, or the mayor. No business of the commission shall be conducted, except in meetings open to the public. Three members shall constitute a quorum.

**§76-75 Personnel director.** The commission shall appoint and may at pleasure remove a personnel director, who shall be the chief administrative officer of the department of civil service. The director shall, at the time of his

appointment, and thereafter, be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration.

**§76-76 Deputy director.** The personnel director may designate a qualified person as his deputy. The deputy shall be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration. In case of a vacancy in the office of director or of the absence of the director or his inability from any cause to discharge the powers and duties of his office, the powers and duties shall devolve upon his deputy.

**§76-77 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the public service of each county, now existing or hereafter established and embraces all personal services performed for each county, except the following:

- (1) Positions in the office of the mayor, but the positions shall be included in the position classification plan;
- (2) Positions of officers elected by public vote, positions of heads of departments and positions of one first deputy or first assistant of heads of departments;
- (3) Positions of deputy county attorney, deputy corporation counsels, deputy prosecuting attorneys, and law clerks;
- (4) Positions of members of any board, commission or agency;
- (5) Positions filled by students; positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973; and employees engaged in special research or demonstration projects approved by the Mayor, for which projects federal funds are available;
- (6) Positions of district magistrates, jurors, jury commissioners, and witnesses;
- (7) Positions filled by persons employed by contract where the personnel director has certified and where such certification has received the approval of the commission that the service is special or unique, is essential to the public interest and that, because of the circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (8) Positions of a temporary nature needed in the public interest where the need for the same does not exceed ninety days; but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable; provided, that the employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director, approved by the commission;

- (9) Positions of temporary election clerks in the office of the county clerk employed during election periods;
- (10) Positions specifically exempted from this part by any other state statutes;
- (11) Positions of one private secretary of heads of departments, but such positions shall be included in the position classification plan;
- (12) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county and that fact is certified to by the director.

The director shall determine the applicability of this section to specific positions and the director shall determine whether or not positions excluded by paragraphs (7) and (8) of this section shall be included in the position classification plan.

Nothing in this section shall be deemed to affect the civil service status of any incumbent private secretary of heads of departments as it existed on the effective date of this Act.

**§76-78 Provisions of Part II applicable.** Except as otherwise specifically provided in this part, all of the provisions of Part II shall apply to each of the counties of Hawaii, Maui, and Kauai and shall be deemed a part of this part, for which purpose wherever reference is made in Part II to the State or governor or the legislature, it means each of the counties, the mayor of each county, and the council of each county, respectively, and references therein to the state director of personnel services and the civil service commission means the director and the commission provided for in section 76-71; provided, that the reference to the director in sections 76-12, 76-17, 76-42, and 76-43 means the commission provided for in section 76-71; and provided further that section 76-16 shall not be deemed a part of this part.

**§76-79 Rules and regulations, general policy.** The rules and regulations prescribed by each commission shall, among other things, recognize and be in conformity to the distinction between matters of policy, which are by this chapter and chapter 77 left for the determination of the commission, and matters of technique and administration, which are by the chapters, left for execution by the personnel director.

**§76-80 Additional duties of county director.** In addition to the duties prescribed in section 76-13, the county personnel director shall report to the commission his findings and recommendations resulting from the investigation under section 76-13(7).

**§76-81 Director, employees retirement system representative.** In addition to the duties prescribed by section 76-13, the personnel director of each county shall represent the employees retirement system of the State, when so requested by the board of trustees of the system, in advising employees of their rights, duties, and benefits thereunder, in processing the forms prescribed by the board of trustees and in giving other assistance with respect thereto."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 7, 1977.)

ACT 62

S.B. NO. 416

A Bill for an Act Relating to Employees of County Legislative Bodies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-32, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 46-32 Employees of council.** Any other provision to the contrary notwithstanding, the council of any county may appoint and employ personnel as it deems necessary and prescribe their powers, duties and compensation. All such personnel shall be exempt from the civil service and the position classification plan.

Nothing in this section shall be deemed to affect the civil service or exempt status, salary range, vacation, sick leave, service credit and other rights and privileges of any incumbent as it existed on the day prior to the effective date of this section; provided that subsequent changes may be made pursuant to applicable personnel laws."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 9, 1977.)

ACT 63

H.B. NO. 103

A Bill for an Act Relating to State-Owned Lands Suitable and Available for Residential Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended to by adding a new section to be appropriately designated to read as follows:

**"Sec. 171- Public lands suitable and available for residential development; inventory.** The department of land and natural resources shall complete and maintain a current inventory of all public lands placed in the urban district by the land use commission under chapter 205 which are or may be suitable and available for residential development. This inventory shall be updated at the end of each quarter and shall contain the following information:

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\*Edited accordingly.

## ACT 64

the island and area in which the land is situated, the acreage, and such other information which the department determines may be necessary to identify and inventory the land."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 9, 1977.)

## ACT 64

H.B. NO. 162

A Bill for an Act Relating to the Establishment of a Staggered Work Hour and/or Variable Time Program for State Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that traffic congestion in Hawaii occurs mainly during peak morning and afternoon traffic hours when people commute along major traffic corridors to and from work. Hawaii's roads have adequate capacity to handle all but the heaviest peak hour traffic and the cost of constructing additional lanes to handle peak hour traffic would be unreasonably high, as the additional lanes would be greatly underutilized during normal traffic hours. The legislature further finds that staggered work hours and/or variable time programs used in conjunction with other transportation strategies such as carpooling, express bus service and van pools may lead not only to more efficient use of our streets and highways but may also obviate the need to construct other costly and unnecessary transportation facilities.

Staggered work hour and variable time programs have been initiated by government employers who have allowed employees to choose their own starting times, with favorable response. For example, in March, 1974, the City of Ottawa initiated a variable work hour program which significantly reduced peak hour traffic.

The legislature therefore finds that staggered work hours and/or variable time programs of sufficient scope to noticeably affect traffic congestion should be initiated by the governor to include all state offices and schools whose participation in the program would not unduly affect their delivery of services to the public. The staggered work hour and/or variable time programs should include identification of those offices capable of participation in the program, standards for monitoring the level of services provided to the public by these offices during the program's existence, and criteria to monitor the program's success in decreasing traffic congestion.

The legislature further finds that to achieve maximum effectiveness of a staggered work hour and/or variable time program would necessitate the joint cooperative efforts of the governor and the exclusive representatives of the appropriate collective bargaining units for State employees.

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\*Edited accordingly.

SECTION 2. Section 80-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 80-1 Office hours.** Offices of the State and counties and independent boards and commissions thereof shall open for the transaction of public business between the hours of 7:45 a.m. and 4:30 p.m., Monday to Friday, inclusive. By executive order, the governor may modify the hours of business offices, other agencies and schools in order to meet a demonstrated need for public services, to provide for the efficient operation of business, to encourage energy conservation and to reduce traffic congestion. Offices shall be closed on Saturday, except those which public convenience require shall remain open from 8 a.m. to noon on Saturday. Offices open on Saturday may be staffed with a skeleton force. A lunch period of forty-five minutes will be allowed all governmental personnel, which shall not constitute working time under this section."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 9, 1977.)

ACT 65

H.B. NO. 177

A Bill for an Act Relating to Milk Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 157-1, Hawaii Revised Statutes, is amended by amending the definition of "milk" to read:

"Milk" is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than 8.25 per cent milk solids-not-fat and not less than 3.25 per cent milkfat. For the purpose of milk control, "milk" is any product, containing milk solids, normally produced or marketed through the channels of the fluid milk trade and includes raw milk, pasteurized milk, cream, buttermilk, flavored milk, recombined or reconstituted milk, filled milk, and sterilized milk. "Milk" shall not include butter, cheese, ice cream, or condensed or evaporated milk contained in hermetically sealed cans."

SECTION 2. Section 157-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 157-13 General powers.** The department of agriculture through its board is hereby vested with the following powers:

- (1) To regulate and supervise in a milk shed the production, transportation, processing, storage, distribution, and delivery of milk, the establishment of quotas and the setting of minimum prices to be paid to producers by producer-distributors and distributors; provided that nothing contained in this chapter shall be construed to abrogate or

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\*Edited accordingly.

affect the status, force or operation of any provision of the laws on public utilities, public health, expenditure of public funds or any local health ordinance or health regulation.

- (2) To investigate all matters in a milk shed pertaining to the production, transportation, processing, storage, distribution, and delivery of milk, and the establishment of quotas and the setting of minimum prices to be paid to producers by producer-distributors and distributors; to subpoena producers, producer-distributors and distributors, their records, books and accounts, and any other person from whom information may be desired to carry out the purpose and intent of this chapter; and by leave of a circuit court, to order the taking of depositions of witnesses absent from the State. Any authorized employee may sign and issue subpoenas and may administer oaths to witnesses and conduct hearings and investigations. In case of failure of any person to comply with any subpoena issued under authority of this chapter, or the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of the district court of the circuit in which the person resides or of the circuit in which the person may be personally served, on application of the board or its authorized representatives, shall compel obedience, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.
- (3) To assist all industry-wide programs pertaining to the production, transportation, processing, storage, distribution, and delivery of milk, feed, supplies, animals, and other related agricultural commodities. Such program may include advertising, feed storage and ensilage programs, heifer replacement program, agricultural park programs, relocation of dairies, and other related programs that would make the milk shed more viable, thereby assuring the production of an adequate supply of wholesome milk for the consumer.
- (4) To control the intrastate shipment of milk including shipment of milk between counties.
- (5) To make and enforce all rules and regulations and all orders necessary to carry out this chapter.

The operation and effect of any provision of this chapter conferring a general power shall not be impaired or qualified by the granting of a specific power or powers."

SECTION 3. Section 157-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 157-16 Divulging of information.** No person obtaining any information pursuant to sections 157-14 and 157-15 shall divulge the information except as may be necessary or proper to administer and enforce this chapter or as the public interest may require."

SECTION 4. Section 157-22, Hawaii Revised Statutes, is amended to read:

**"Sec. 157-22 Application for license and payment of fee.** An applicant for an original or renewal license to operate as a producer, producer-distributor, or distributor shall file an application upon a form prepared by the board of

agriculture, containing such information which the board deems necessary for the administration of this chapter. The board shall establish a reasonable application fee for an original or renewal license which the applicant shall remit when application is filed. An agricultural cooperative all of whose producer-members have complied with the licensing provision of this chapter shall be exempt from the payment of the application fee.

The license year shall be from July 1 to the following June 30. All applications for renewal of licenses must be duly made at least thirty days before the commencement of the license year."

SECTION 5. Section 157-23, Hawaii Revised Statutes, is amended to read:

**"Sec. 157-23 License fee.** In order to meet the expenditures necessary to administer this chapter, the board of agriculture shall establish license fees to be paid by producers, producer-distributors and distributors. In determining these fees, the board shall, at least thirty days before the new license year begins:

- (1) Project the reasonable expenditures necessary to administer the chapter for the license year;
- (2) Project the amount to be paid by applicants for original or renewal licenses for the license year;
- (3) Estimate the total volume of milk to be produced and processed for the license year;
- (4) Using (1), (2) and (3) above, establish a reasonable rate per hundred-weight or other unit as determined by the board; and
- (5) Collect such fees monthly, or at such other intervals as may be determined by the board, during the license year based on actual milk produced and processed.

To facilitate the collection of license fees, the board may require a producer-distributor or distributor to withhold from any payment owing to any producer a part or all of the license fee due under this chapter by such producer. For any such withholding required by the board, the producer-distributor or distributor shall be paid a reasonable fee by the board. The amount of the fee shall be set by the board. An agricultural cooperative all of whose members have complied with the licensing provisions of this chapter shall be exempt from the payment of the license fee."

SECTION 6. Section 157-28, Hawaii Revised Statutes, is amended to read:

**"Sec. 157-28 Disposition of license and application fees.** All moneys received by the board of agriculture as application fees and for licenses or otherwise shall be deposited in the general fund."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 8. This Act shall take effect as of July 1 following the date of its approval.

(Approved May 9, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Safe Drinking Water.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section -2 of Section 1, Act 84, Session Laws of Hawaii 1976, is amended to read:

**"Sec. -2 Drinking water standards.** (a) The director shall promulgate and enforce State Primary Drinking Water Regulations and may promulgate and enforce State Secondary Drinking Water Regulations. State Primary Drinking Water Regulations shall protect health to the extent feasible, using technology, treatment techniques, and other means which are generally available, taking cost into consideration. Maximum contaminant levels covered by revised National Primary Drinking Water Regulations shall be set at a level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. Treatment techniques covered by revised National Primary Drinking Water Regulations shall require treatment necessary to prevent known or anticipated adverse effects on the health of persons. The State Primary Drinking Water Regulations shall be not less stringent than the National Primary Drinking Water Regulations in effect at that time.

(b) Subject to section -3, State Primary and Secondary Drinking Water Regulations shall apply to each public water system in the State; however, such regulations shall not apply to a public water system which:

- (1) Consists only of distribution and storage facilities (and which does not have any collection and treatment facilities);
- (2) Obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;
- (3) Does not sell water to any person; and
- (4) Is not a carrier which conveys passengers in interstate commerce."

(c) The director shall adopt and implement procedures for the enforcement of State Primary Drinking Water Regulations, including monitoring, inspection, and recordkeeping procedures, that comply with regulations established by the administrator pursuant to the Federal Act.

(d) The director may promulgate and enforce regulations relating to cross-connection and backflow prevention control.

(e) The director shall promulgate regulations establishing an underground injection control program. Such program shall prohibit any underground injection which is not authorized by a permit issued by the director, except that the director may authorize underground injection by regulation. Underground injection authorized by regulation shall not endanger drinking water sources. Any underground injection control program shall:

- (1) Set standards and prohibitions controlling any underground injection if such injection may result in the presence of any contaminant in underground water which supplies or may be expected to supply any public water system, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of

persons.

- (2) Require, in the case of a program which authorizes underground injection by permit, that the applicant for the permit satisfy the director that the underground injection will meet the requirements of item (1) of this subsection.
- (3) Include inspection, monitoring, recordkeeping, and reporting requirements."

SECTION 2. Section -6 of Section 1, Act 84, Session Laws of Hawaii 1976, is amended to read:

"Sec. -6 Notification of users and department. Whenever a public water system:

- (1) Fails to comply with an applicable maximum contaminant level, treatment technique, or testing procedure requirement of a State Primary Drinking Water Regulation;
- (2) Fails to perform monitoring required by regulations adopted by the director;
- (3) Is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or
- (5) Fails to comply with the requirements of any schedule prescribed by such a variance or exemption,

the public water system shall promptly notify the department and local communications media of the conditions and the extent to which they may impose adverse effects on public health. At least once every three months so long as the failure, variance, or exemption continues, the public water system shall also publish notice in a newspaper of general circulation within the areas served by the public water system. Such notice shall also accompany the water bills of the public water system so long as the failure, variance, or exemption continues, as follows: if the water bills are issued more than once every three months, such notice shall be included in at least one water bill of the system for each customer every three months; if the water bills are issued less than once every three months, such notice shall be included in each of the water bills issued by the system for each customer. The director shall prescribe by regulations the form and manner for giving such notice. Such regulations may contain such additional public notification requirements as the director determines are necessary to best effectuate the purpose of this section and may also contain alternative notice requirements for systems principally serving non-resident users."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 9, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 236-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 236-5 Rates; exempt amount.** When the beneficial interest in any property or income therefrom passes as above provided to or for the use of decedent's surviving spouse, the rate of the tax and the tax thereon shall be at the following percentage rate of the market value of the property, received by such person in excess of \$100,000, viz.:

SURVIVING SPOUSE			
(A)	(B)	(C)	(D)
Taxable Value Equal to Or More Than —	But Taxable Value Less Than —	Tax on Amount In Col. (A)	Plus Rate of Tax on Excess Over Amount In Col. (A)
\$ 0	\$ 25,000	\$ 0	2%
25,000	100,000	500	3%
100,000	200,000	2,750	5%
200,000	.....	7,750	7%

When the beneficial interest in any property or income therefrom passes as above provided to or for the use of decedent's father, mother, child, grandchild, or any child adopted as such in conformity with the laws of the State, the rate of the tax and the tax thereon shall be at the following percentage rate of the market value of the property, received by each person in excess of \$50,000, viz.:

DIRECT LINE BENEFICIARY			
(A)	(B)	(C)	(D)
Taxable Value Equal to Or More Than —	But Taxable Value Less Than —	Tax on Amount In Col. (A)	Plus Rate of Tax on Excess Over Amount In Col. (A)
\$ 0	\$ 25,000	\$ 0	3%
25,000	75,000	750	5%
75,000	150,000	3,250	7%
150,000	.....	8,500	8%

In all other cases, the rate of tax on the market value of the property and the tax thereon in excess of \$5,000 shall be as follows, viz.:

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**ALL OTHER BENEFICIARIES**

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(A)	(B)	(C)	(D)
Taxable Value Equal to Or More Than —	But Taxable Value Less Than —	Tax on Amount In Col. (A)	Plus Rate of Tax on Excess Over Amount In Col. (A)
\$ 0	\$ 20,000	\$ 0	3%
20,000	70,000	600	6%
70,000	145,000	3,600	8%
145,000	.....	9,600	10%

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SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act, upon its approval, shall apply only to property that passes by will or by the intestate laws of this State from any person who dies after December 31, 1977.

(Approved May 9, 1977.)

**ACT 68**

**H.B. NO. 1001**

**A Bill for an Act Relating to Bikeways.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 243-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 243-6 Fuel taxes, dispositions.** The "city and county of Honolulu fuel tax" shall be paid by the department of taxation into the state treasury, and shall, by the state director of finance, be paid over to the director of finance of the city and county of Honolulu for deposit into the fund known as the "highway fund" created by section 249-18.

The "county of Kauai fuel tax" shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Kauai for deposit into the fund known as the "highway fund" created by section 249-18.

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\*Edited accordingly.

The "county of Hawaii fuel tax" shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Hawaii for deposit into the fund known as the "highway fund" created by section 249-18.

The "county of Maui fuel tax" collected on account of liquid fuel sold or used on the island of Lanai or sold elsewhere for ultimate use on the island of Lanai, shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Maui for deposit into the fund known as the "highway fund" created by section 249-18, for expenditure on the island of Lanai. The "county of Maui fuel tax" collected on account of liquid fuel sold or used on the island of Molokai or sold elsewhere for ultimate use on the island of Molokai, shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Maui for deposit into the fund known as the "highway fund" created by section 249-18, for expenditure on the island of Molokai. The remainder of the "county of Maui fuel tax" shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Maui for deposit into the fund known as the "highway fund" created by section 249-18.

Each of the foregoing taxes shall be expended for the following purposes, for the island for which the tax revenue is specially indicated, or, if none, for the county for which the tax revenue is indicated:

- (1) For payment of interest on and redemption of any bonds duly issued or sold on or after July 1, 1951, under chapter 47 for the financing or aiding in financing the construction of county highway tunnels, approach roads thereto, and highways. Such payments of interest and principal on the bonds when due, shall be first charges on such moneys so deposited in the fund.
- (2) For acquisition, designing, construction, reconstruction, improvement, repair, and maintenance of county main and general thoroughfares, highways, and other streets, street lights, storm drains, and bridges, including costs of new land therefor, when expenditures for the foregoing purposes cannot be financed under state-federal aid projects.
- (3) In the case of the city and county of Honolulu, for payment of the city and county's share in an improvement district initiated by the city and county for an improvement listed in (2) above which is permitted to be constructed in the city and county.
- (4) For the construction of county highway tunnels, overpasses, underpasses, and bridges, where such improvement cannot be made under state-federal aid projects.
- (5) For purposes and functions connected with county traffic control and preservation of safety upon the public highways and streets.
- (6) For purposes and functions in connection with mass transit.
- (7) For acquisition, design, construction, improvement, repair, and maintenance of bikeways.
- (8) No expenditure shall be made, out of the revenues paid into any such

fund, which will jeopardize federal aid for highway construction.”

SECTION 2. Section 248-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The moneys remaining in the state highway fund after the payment and transfers required by subsections (a) and (b) of this section shall be expendable by the department of transportation for the design, construction, reconstruction, repair, and maintenance of and for engineering and acquisition of (1) rights-of-way for highways (including bikeways) in the State upon which federal moneys are expendable or have been expended, pursuant to chapter 264, and the Federal Highway Act and legislation supplementary thereto; and (2) lands and interests therein whether within or without these rights-of-way for highway beautification, scenic enhancement, and rest, recreational, and sanitary facilities; and (3) such other public highways (including bikeways) as may be designated by the director of transportation for inclusion in the state highway system under section 264-42; provided that except with the approval of the attorney general no expenditure shall be made from the fund for legal services; provided further that the expenditure from such fund for new construction work, including acquisition of rights-of-way, shall be so apportioned to the counties by the department of transportation that, as nearly as practicable and to the extent allowable under the Federal Highway Act and other federal legislation, there shall be expended by each county the estimated amount of its share of the collections in the fund remaining after the deduction of charges for bonds and maintenance, such estimate to be made by the department of transportation, except as hereinafter stated, and to be computed on the following basis:

- (1) There shall be credited to each county the amount of the collections made each year for deposit in the fund, for fuel sold or used within such county; provided that fuel intended for ultimate use in another county shall be credited to the county in which the same is to be so used; provided further that the amount of the county of Hawaii extra state tax shall be credited directly to the share of the county and shall be computed without any deduction from the amount for payments and transfers required by subsections (a) and (b) of this section or for repairs or maintenance. The department of taxation shall estimate the amount of such collections for each county for the year.
- (2) There shall be charged against the total of such collections for the entire State for the year (except as hereinabove provided) the amount of the bond requirements of the several counties for the year pursuant to subsection (a) of this section, as determined by the respective county treasurers and the director of finance. The department of taxation and the county treasurers and director of finance shall certify such amounts to the department of transportation and the state director of finance on or before January 31 of each year.
- (3) There further shall be charged against the total of such collection for the entire State for the year (except as hereinbefore provided) the cost for the year of repairs and maintenance of federal-aid highways, including the cost of equipment and general administrative overhead,

and the moneys paid or set aside in funds reserved for the payment of interest and principal on state highway revenue bonds during the year as required by subsection (b) of this section.

The balance remaining after the deductions of the foregoing charges for bonds and maintenance shall be divided among the several counties in proportion to their credits for collections (not including in the credit for Hawaii for that purpose, the county of Hawaii extra state tax), and the amount so determined for each county shall be deemed its share of the collections in the fund remaining after the deduction of charges for bonds and maintenance; provided that there shall be additionally credited to the county of Hawaii's share the county of Hawaii extra state tax. If the actual share of any county for the year, as determined at the close of the calendar year upon the basis of actual collections, repairs, and maintenance, exceeds or is less than the expenditure for such county for such year for new construction, such excess shall be added or such deficiency deducted in determining the share of such county for the following year.

Provided that there shall be expended from the moneys so remaining in the state highway fund for new construction in west Hawaii, and charged against the county of Hawaii's share of the collections, an amount at least equal to ten per cent of the principal of any state bonds issued on or after January 1, 1947, and prior to January 1, 1955 for new construction for the county of Hawaii; provided further that there shall be paid from the state highway fund and charged against the county of Hawaii's share of the collections, the same as if expended directly for new construction, the following requirements for state bonds issued on or after January 1, 1947, and prior to January 1, 1955, for new construction for the county of Hawaii, to wit: the interest on such bonds and the principal of all serial bonds maturing the following year, such payments to be made by the state director of finance, who shall certify the amount thereof to the state department of transportation, from time to time.

As used in this subsection (c) the term "new construction" includes the items enumerated in the first sentence hereof, except repairs and maintenance."

SECTION 3. Section 249-18, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 249-18 Highway fund.** All taxes collected under this chapter, except those collected pursuant to sections 249-14 and 249-15, shall be deposited in a fund to be known as the "highway fund" and shall be expended in the county in which the taxes are collected for the following purposes:

- (1) For acquisition, designing, construction, improvement, repair, and maintenance of public roads and highways, including without restriction of the foregoing purposes, costs of new land therefor, of permanent storm drains or new bridges, as well as repairs or additions to storm drains or bridges;
- (2) For installation, maintenance, and repair of street lights and power, and other charges for street lighting purposes, including replacement of old street lights, on county-maintained public roads and highways;
- (3) For purposes and functions connected with traffic control and preservation of safety upon the public highways and streets;

- (4) For payment of interest on and redemption of bonds issued to finance highway and street construction and improvements;
- (5) In the case of the city and county of Honolulu, for appropriation for the police department up to the sum of \$500,000. No expenditures shall be made out of this fund which will jeopardize federal aid for highway construction;
- (6) For purposes and functions connected with mass transit; and
- (7) For the acquisition, design, construction, improvement, repair, and maintenance of bikeways."

SECTION 4. Section 264-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 264-1 Public highways, defined, etc.** All roads, alleys, streets, ways, lanes, trails, bikeways, and bridges in the State, opened, laid out, or built by the State or any political subdivision thereof, are declared to be public highways. Public highways are of two types:

- (1) State or federal-aid highways, which are all those under the jurisdiction of the department of transportation; and
- (2) County highways, which are all other public highways.

All roads, alleys, streets, ways, lanes, trails, bikeways, and bridges in the State, opened, laid out, or built by private parties and dedicated or surrendered to the public use, are declared to be public highways. Dedication of public highways shall be by deed of conveyance naming the State as grantee in the case of a state highway and naming the county as grantee in the case of a county highway. The deed of conveyance shall be delivered to and accepted by the director of transportation in the case of a state highway and shall be delivered to and accepted by the legislative body of a county in the case of a county highway. Surrender of public highways shall be deemed to have taken place if no act of ownership by the owner of the road, alley, street, bikeway, way, lane, trail, or bridge has been exercised for five years and when, in the case of a county highway, in addition thereto, the legislative body of the county has, thereafter, by a resolution, adopted the same as a county highway. In every case where the road, alley, street, bikeway, way, lane, trail, bridge, or highway is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law, the legislative body of the county shall accept the dedication or surrender of the same without exercise of discretion.

All county highways once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the county wherein the county highway lies."

SECTION 5. Section 265-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 265-1 General supervision.** The several boards of supervisors or other governing bodies of the several political subdivisions of the State shall have the general supervision, charge, and control of, and the duty to maintain and repair, all county highways (including bikeways) and shall have the power to determine the terms under which irrigation or drainage ditches, flumes, railroads, including

plantation railroads and similar structures, telephone, electric light and power lines, and pipes and other conduits may be maintained upon, under, over, and across the same, and the boards or other governing bodies may make all regulations needful for the public convenience and safety in all cases where permission has been or may be granted to maintain the ditches, railroads, pipes, or other structures across, under, over, and upon all county highways."

SECTION 6. Section 265-63, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 265-63 Driving on sidewalk, bicycle lane or bicycle path.** No person shall drive, draw, or cause to go upon any bicycle lane, bicycle path, or sidewalk any vehicle whatsoever, except when it is necessary for the vehicle to cross the bicycle lane, bicycle path, or sidewalk for the purpose of going into some yard or lot, or into some place where the vehicle is kept when not in use; provided any vehicle may be driven in a bicycle lane or bicycle path if:

- (1) It is in the process of executing a legal turn;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 9, 1977.)

ACT 69

H.B. NO. 1463

A Bill for an Act Excluding Trees Involved in Commercial Forestry Operations.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 58-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 58-3 County arborist advisory committees; powers and duties.** For the purposes of this chapter, the county committees shall have the following powers and duties in addition to those delegated by the respective county councils:

- (1) To research, prepare and recommend to the county council exceptional trees to be protected by county ordinance or regulation.

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\*Edited accordingly.

- (2) To advise property owners relative to the preservation and enhancement of exceptional trees.
- (3) To recommend to the county council appropriate protective ordinances, regulations, and procedures.
- (4) To review all actions deemed by the county council to endanger exceptional trees.

For purposes of this section, "exceptional trees" means a tree or stand or grove of trees with historic or cultural value, or which by reason of its age, rarity, location, size, esthetic quality, or endemic status has been designated by the county committee as worthy of preservation. The term "exceptional trees" does not apply to trees planted for commercial forestry operations in each county within the State of Hawaii. Exceptional trees may be designated generally by biotaxy or individually by location or class."

SECTION 2. The new material is underscored.†

SECTION 3. This Act shall take effect upon its approval.

(Approved May 9, 1977.)

ACT 70

S.B. NO. 460

A Bill for an Act Relating to Regulatory Boards and Commissions.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The Legislature finds that: (1) there is growing concern over the rapid proliferation of licensing boards and commissions; (2) that there is a need to insure that regulation operates in the interests of the public rather than those of the profession or vocation regulated; and (3) that decisions to regulate have in the past been heavily influenced by the trade or occupational group affected and often have been made without detailed factual data necessary to evaluate the purpose and effectiveness of the regulatory proposal.

The purpose of this Act is to establish policies and procedures designed to insure that regulation of professions and vocations is in the public interest. This Act: (1) provides for a periodic assessment of existing professional and vocational regulation; (2) insures that all available information is available prior to such assessment; and (3) provides for the automatic repeal of regulatory laws which after assessment are found to be contrary to the public interest. The Act further provides for such factual assessment prior to the consideration of new regulatory proposals.

**SECTION 2.** The Hawaii Revised Statutes are hereby amended by adding thereto a new chapter to be appropriately designated and to read:

"**Sec. -1 Title.** This chapter shall be known as the "Hawaii Regulatory Licensing Reform Act".

**Sec. -2 Policy.** The legislature hereby adopts the following policies

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† Edited in manner of other Acts.

concerning professional and vocational regulation within the State:

- (1) The regulation and licensing of professions and vocations by the State shall be undertaken only where reasonably necessary to protect the health, safety or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;
- (2) Even where regulation of professions and vocations is reasonably necessary to protect consumers, government interference should be minimized; if less restrictive alternatives to full licensure are available, they should be adopted;
- (3) Professional and vocational regulation shall not be imposed except where necessary to protect relatively large numbers of consumers who because of a variety of circumstances may be at a disadvantage in choosing or relying on the provider of the service;
- (4) Evidence of abuses by providers of the service shall be accorded great weight in determining whether government supervision is desirable;
- (5) Professional and vocational regulation which artificially increases the costs of goods and services to the consumer should be avoided;
- (6) Professional and vocational regulation should be eliminated where its benefits to consumers are outweighed by its costs to taxpayers; and
- (7) Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons.

**Sec. -3 Definitions.** As used in this chapter:

- (1) "Director" means the director of regulatory agencies.
- (2) "Repeal date" means the effective date of repeal established for various chapters by section -4.
- (3) "Joint committee" means a joint committee of both houses of the legislature which the president of the senate and the speaker of the house of representatives shall appoint for the purpose of reviewing assessment reports filed pursuant to sections -5 and -6.
- (4) "Impact statement" means a written statement in such form and containing such information as the director shall prescribe which as a minimum shall contain all reasonably obtainable data regarding the consumers and providers of a service or activity which is regulated or proposed to be regulated.

**Sec. -4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1978:

- (1) Chapter 438, Hawaii Revised Statutes (Board of Barbers)
  - (2) Chapter 448A, Hawaii Revised Statutes (Escort Agencies)
  - (3) Chapter 452, Hawaii Revised Statutes (Board of Massage)
  - (4) Chapter 455, Hawaii Revised Statutes (Board of Examiners in Naturopathy)
  - (5) Chapter 462, Hawaii Revised Statutes (Board of Photography)
  - (6) Chapter 463E, Hawaii Revised Statutes (Podiatry)
- (b) The following chapters are hereby repealed effective December 31,

1979:

- (1) Chapter 437, Hawaii Revised Statutes (Motor Vehicle Industry Licensing Board)
- (2) Chapter 440, Hawaii Revised Statutes (Boxing Commission)
- (3) Chapter 443, Hawaii Revised Statutes (Collection Agencies Board)
- (4) Chapter 446D, Hawaii Revised Statutes (Degree Granting Institutions)
- (5) Chapter 448H, Hawaii Revised Statutes (Elevator Mechanics Licensing Board)
- (6) Chapter 467A, Hawaii Revised Statutes (Rental Agencies)
- (c) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436, Hawaii Revised Statutes (Board of Examiners for Abstract Makers)
  - (2) Chapter 439, Hawaii Revised Statutes (Board of Cosmetology)
  - (3) Chapter 447, Hawaii Revised Statutes (Dental Hygienists)
  - (4) Chapter 463, Hawaii Revised Statutes (Board of Private Detectives and Guards)
  - (5) Chapter 468J, Hawaii Revised Statutes (Travel Agencies)
  - (6) Chapter 471, Hawaii Revised Statutes (Board of Veterinary Examiners)
- (d) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441, Hawaii Revised Statutes (Cemetery Board)
  - (2) Chapter 451A, Hawaii Revised Statutes (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B, Hawaii Revised Statutes (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458, Hawaii Revised Statutes (Board of Dispensing Opticians)
  - (5) Chapter 459, Hawaii Revised Statutes (Board of Examiners in Optometry)
  - (6) Chapter 465, Hawaii Revised Statutes (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E, Hawaii Revised Statutes (Board of Speech Pathology and Audiology)
- (e) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D, Hawaii Revised Statutes (Board of Acupuncture)
  - (2) Chapter 437B, Hawaii Revised Statutes (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442, Hawaii Revised Statutes (Board of Chiropractic Examiners)
  - (4) Chapter 448E, Hawaii Revised Statutes (Board of Electricians and Plumbers)
  - (5) Chapter 464, Hawaii Revised Statutes (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466, Hawaii Revised Statutes (Board of Public Accountancy)

- (7) Chapter 467, Hawaii Revised Statutes (Real Estate Commission)
- (f) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444, Hawaii Revised Statutes (Contractors License Board)
  - (2) Chapter 448, Hawaii Revised Statutes (Board of Dental Examiners)
  - (3) Chapter 453, Hawaii Revised Statutes (Board of Medical Examiners)
  - (4) Chapter 457, Hawaii Revised Statutes (Board of Nursing)
  - (5) Chapter 460, Hawaii Revised Statutes (Board of Osteopathic Examiners)
  - (7) Chapter 461, Hawaii Revised Statutes (Board of Pharmacy)

**Sec. -5 Impact statement; review; recommendation to the legislature.** Each board or commission created under a chapter repealed by section -4, and the director of regulatory agencies with respect to such chapters which do not create a board or commission, shall prior to October 1 of the year preceeding the year of the repeal date transmit to the governor and file with the clerks of both houses of the legislature an impact statement in compliance with this section. The impact statement shall contain an assessment of whether the regulation established by the chapter complies with the policies established by section -2, and shall contain a recommendation as to whether the public interest requires that the chapter be reenacted, modified or permitted to expire. The impact statement may also recommend that the repeal date established by section -4 be extended to some later date not more than six years after the repeal date. The joint committee shall review and hold a public hearing on each impact statement filed pursuant to this section and shall prior to January 1 of the year of the repeal date file a report containing its conclusions and recommendations thereon with the clerks of both houses of the legislature.

**Sec. -6 New regulatory measures.** All persons who advocate the passage of new regulatory measures which if enacted would subject unregulated professions and vocations to licensing or other regulatory controls shall prepare and file an impact statement with the clerks of both houses of the legislature. The impact statement required by this section shall set forth the probable effects of the proposed regulatory law and contain a determination as to whether its enactment is consistent with the policies set forth in section -2. A copy of the impact statement required by this section shall be furnished the director and the joint committee who shall provide their recommendations thereon to the legislature.

**Sec. -7 Repeal of subsections.** Any subsection of section -2 may be repealed or amended and such action shall not affect other provisions or applications of this chapter."

**SECTION 3. Severability.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 4.** This Act shall take effect upon approval.

(Approved May 10, 1977.)

## ACT 71

S.B. NO. 867

**A Bill for an Act Relating to Corporations.***Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 416, Hawaii Revised Statutes, is amended by adding two new sections to read as follows:

**Sec. 416-35 Indemnification of officers, directors, employees, and agents.**

(a) As used in this section, unless the context otherwise requires:

- (1) "Agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.
- (2) "Expenses" includes, without limitation, attorneys' fees, and any expenses of establishing a right to indemnification under section 416-35(d) or section 416-35(e)(4).
- (3) "Proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative.

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the corporation unless and only to the

extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(d) To the extent that an agent has been successful on the merits or otherwise in defense of any proceeding referred to in section 416-35(b) or section 416-35(c), or in defense of any claim, issue or matter therein, the agent shall be indemnified by the corporation against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Any indemnification under section 416-35(b) or section 416-35(c) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in section 416-35(b) or section 416-35(c). Such determination shall be made as follows:

- (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding; or
- (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or
- (3) by the stockholders; or
- (4) the court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be paid by the corporation in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall ultimately be determined that the agent is entitled to be indemnified by the corporation as authorized in this section.

(g) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in a person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be an agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(h) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation, against any liability asserted against or incurred by the agent in any such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under this section.

(i) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the employer corporation as defined in section 416-35(a). Nothing contained in this section shall limit any right to indemnification to which such a trustee,

investment manager or other fiduciary may be entitled by contract or otherwise.

**Sec. 416-82 Action by directors without a meeting.** Unless otherwise provided by the articles of incorporation or bylaws, any action required or permitted to be taken at any meeting of the directors or of a committee of the directors may be taken without a meeting if all of the directors or all of the members of the committee, as the case may be, sign written consent setting forth the action taken or to be taken at any time before or after the intended effective date of such action. Such consent shall be filed with the minutes of the directors' meetings or committee meetings, as the case may be, and shall have the same effect as a unanimous vote."

SECTION 2. Section 416-18, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 416-18 Officers.** The officers of a corporation for profit shall consist of a president, one or more vice-presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected or appointed by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person; provided that every corporation shall have not less than two persons as officers.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws."

SECTION 3. Section 416-26, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 416-26 Powers, express.** Every corporation created in the State shall have the following powers, in addition to any other powers set forth in or reasonably implied from its articles of association or charter, except as otherwise expressly limited or denied by its articles of association or charter:

- (1) To have succession by its corporate name for the period limited in its articles of association or charter, but not beyond the period, if any, limited by law, and when no period is limited, perpetually;
- (2) To sue and be sued in any court;
- (3) To make and use a common seal, and alter it at its pleasure;
- (4) To hold, purchase, and convey such property as the purposes of the corporation require, not exceeding the amount limited by its articles of association or charter if any limit is therein prescribed, and to mortgage, pledge, and hypothecate the same to secure any debt of the corporation;
- (5) To appoint such subordinate officers and agents as the business of the corporation requires;
- (6) To sell, convey, mortgage, pledge, lease, exchange, transfer, and other-

- wise dispose of all or any part of its property and assets;
- (7) To lend money to its employees, officers, and directors, and otherwise assist its employees, officers, and directors;
  - (8) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality, or of any instrumentality thereof;
  - (9) To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;
  - (10) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;
  - (11) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any state, territory, district, or possession of the United States, or in any foreign country;
  - (12) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation;
  - (13) To make and alter bylaws, not inconsistent with its articles of association or charter or with the laws of this State;
  - (14) To make donations for the public welfare or for charitable, scientific, or educational purposes, and in time of war to make donations in aid of war activities;
  - (15) In time of war to transact any lawful business in aid of the United States in the prosecution of the war;
  - (16) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans, and other incentive or benefit plans for any of its directors, officers and employees; and, to the extent permitted by applicable federal law, to indemnify and purchase and maintain insurance on behalf of any fiduciary of any employee benefit plan or trust maintained for the benefit of employees of the corporation or another corporation in which it owns shares.
  - (17) To cease its corporate activities and surrender its corporate franchise;
  - (18) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized."

SECTION 4. Section 416-72, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 416-72 Annual meeting.** A meeting of the stockholders or members of every corporation shall be held at least once each year following the year of

incorporation, unless this is dispensed with pursuant to unanimous consent under section 416-78. Meetings of stockholders or members may be held at such place within or without this State as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, meetings shall be held at the principal office of the corporation within this State. Unless otherwise provided in the articles of association or charter of incorporation or bylaws, the annual meeting of the stockholders or members of every corporation, for the election of directors and the consideration of such other business as may come before the meeting, shall be held on the first Monday of April in each year, if not a legal holiday, and if a legal holiday, on the next secular day following."

SECTION 5. Section 416-79, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 416-79 Bylaws; corporation procedure.** The initial bylaws of a corporation shall be adopted by its board of directors or by the incorporators. The power to alter, amend or repeal the bylaws or adopt new bylaws, subject to repeal or change by action of the stockholders or members, shall be vested in the board of directors unless reserved to the stockholders or members by the articles of association or charter of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of association or the charter of incorporation.

Every corporation shall keep in its principal office for the transaction of its business in the State the original or a copy of the bylaws as amended or otherwise altered to date, certified by the secretary or other proper officer, which shall be open to inspection by the stockholders or members at all reasonable times during office hours.

No person dealing with the corporation shall be charged with constructive notice of the bylaws."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved May 10, 1977.)

ACT 72

S.B. NO. 1472

A Bill for an Act Relating to Certain Positions in the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall relate only to those exempt employees employed by the State in the University of Hawaii.

SECTION 2. Permanent employees currently not in civil service who were

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\*Edited accordingly.

employed as senior citizen program aides and are presently working as educational assistants at Honolulu Community College, Community Services Section, in the University of Hawaii shall be converted to permanent civil service status within the meaning of chapters 76 and 77 without the necessity of examination and shall be accorded all the rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded employees with civil service status. Employees so converted shall not suffer a reduction in their pay rate.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1977.)

ACT 73

S.B. NO. 804

A Bill for an Act Relating to Automobile No-Fault Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 294- Priority of insurance coverages.** (a) In the event that there is a temporary substitute vehicle which is made available to a customer, at no charge, by an auto repair shop registered with the Motor Vehicle Industry Board or a motor vehicle dealer licensed by the Motor Vehicle Industry Licensing Board, while the shop or dealer repairs the customer's insured motor vehicle, the no-fault insurance of the insured motor vehicle shall be primary over the insurance on the temporary substitute vehicle.

(b) In the event that an insured motor vehicle is operated by a registered repair shop in the course of repair or to verify repairs, the no-fault insurance of the registered repair shop shall be primary over the insurance on the insured motor vehicle."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1977.)

ACT 74

S.B. NO. 1226

A Bill for an Act Relating to Intergovernmental Procedures Affecting Land Use.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that a major impediment to the orderly processing of needed construction projects is the existing network of state and county land use and planning controls, which are in

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\*Edited accordingly.

most instances repetitive and uncoordinated. These controls consume unnecessary amounts of time and result at best in increases in cost of new projects and at worst in abandonment of needed projects.

The purpose of this Act is to improve the coordination and efficiency of the land use and planning control systems.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 46- Central coordinating agency.** (a) Each county shall, by ordinance, designate an existing agency within each county which shall be designated as the central coordinating agency and in addition to its existing functions shall:

- (1) Maintain and continuously update a repository of all laws, rules, and regulations, procedures, permit requirements and review criteria of all federal, State and county agencies having any control or regulatory powers over land development projects within such county and shall make said repository and knowledgeable personnel available to inform any person requesting information as to the applicability of the same to a particular proposed project within the county.
  - (2) Study the feasibility and advisability of utilizing a master application form to concurrently file applications for an amendment to a county general plan and development plan, change in zoning, special management area permit and other permits and procedures required for land development projects in the county to the extent practicable with one master application.
  - (3) Maintain and continuously update a master file for the respective county of all applications for building permits, subdivision maps, and land use designations of the State and County.
  - (4) When requested by the applicant, the central coordinating agency shall endeavor to schedule and coordinate, to the extent practicable, any referrals, public informational meetings or any public hearings with those held by other federal, state and/or county commissions or agencies pursuant to existing laws pertaining to the respective County.
- (b) All State and county departments, divisions, agencies and commissions, with control or regulatory powers over land development projects in any county of the State shall cooperate with the designated central coordinating agency of each county in making available and updating information regarding laws, rules and regulations, procedures, permit requirements and review criteria they enforce upon land developments projects.
- (c) Each county shall adopt ordinances required by this section by September 1, 1977 and each designated central coordinating agency shall compile the repository required by subsection (a) and adopt necessary rules pursuant to chapter 91 to implement this section by December 31, 1977."

SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 46- Nonsignificant zoning changes.** Each county may provide by ordinance that nonsignificant changes to zoning boundaries may be made administratively by the designated county agency with responsibility over zoning

matters, provided that "nonsignificant changes" shall mean a zoning change which does not result in an increase or decrease in any zoning designation effecting more than 5% or one acre of any parcel of property, whichever is less, and which is in compliance with the general plan and development plan designation for the property."

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. This Act shall take effect upon its approval, but shall not apply to any applications filed prior to the effective date.

(Approved May 11, 1977.)

ACT 75

S.B. NO. 74

A Bill for an Act Relating to the Taxation of the Sale of Residential Leaseholds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 235- Sales of residential land to lessees; involuntary conversion.** (a) A sale by an organization exempt under section 501(c)(3), or treated as an estate or trust under Subchapter J of the Internal Revenue Code to a lessee of the entire interest in the land of the lessor organization, estate, or trust shall be an involuntary conversion of property used in trade or business or a capital asset of the lessor organization, estate, or trust and shall not be a sale of property held by the lessor organization, estate or trust in the ordinary course of a trade or business, irrespective of the number of such sales in any taxable year, if:

- (1) The lessee has a right to terminate such lease and to acquire the entire interest of the lessor in the land, which right exists by virtue of chapter 516 and not because of any private agreement or privately created condition;
- (2) The lessee exercises his right to purchase such entire interest;
- (3) The lessor organization, estate, or trust has held the land for a period determined under subsection (b) prior to the date of purchase by lessee; and
- (4) The land is developed single-family residential land.

(b) The period for which a lessor organization, estate or trust has held land, within the meaning of subsection (a)(3), shall be determined under the rules of section 1223 of the Internal Revenue Code, except that if such land shall have

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\*Edited accordingly.

been acquired by the lessor organization, estate, or trust from a decedent, within the meaning of section 1014 of the Internal Revenue Code, or if such land shall have been acquired by the lessor organization, estate, or trust from a donor, within the meaning of section 1015 (other than section 1015(c)) of the Internal Revenue Code, the holding period shall include the period during which such land shall have been held by such decedent or by such donor and also the period if any for which such land shall have been held by an inter vivos or testamentary trust estate created by such decedent or by such donor.

(c) This section shall not apply with respect to any transaction governed by section 1055 of the Internal Revenue Code.

(d) As used in this section:

- (1) "Lessee" means the original lessee and any successor who has the right under chapter 516 to bring about an involuntary conversion.
- (2) "Lessor" means any fee simple owner, any sublessor, and any person entitled to share in the rents or subrents of the land involved in an involuntary conversion described in subsection (a).

(e) The gain derived from sales qualified as involuntary conversion of property under this section shall be treated as provided in section 1033 of the Internal Revenue Code of 1954, as amended."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

## ACT 76

S.B. NO. 475

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by amending the definition of "Dangerous to property" to read:

"**"Dangerous to property"** means inflicting, attempting or threatening imminently to inflict damage to any property in a manner which constitutes a crime, as evidenced by a recent act, attempt or threat."

SECTION 2. Section 334-21, Hawaii Revised Statutes, is amended to read:

**"Sec. 334-21 Licensing of psychiatric facilities.** No person, association, corporation, or government agency shall establish, maintain, or operate a psychiatric facility to which persons are involuntarily admitted without first obtaining a license therefor from the department of health. The license may be for a definite period and shall be subject to revocation as hereinafter provided. The issuance of a license shall be based upon an application which shall be in such form and shall contain such information as the department may require. The facility must be able to provide adequate care and treatment in conformance

\*Edited accordingly.

with standards established by the department. The department may, at any and all times, examine and ascertain whether a licensed facility is being conducted in compliance with the license and applicable rules and regulations. Subject to chapter 91, the department may, if the interests of the public or of the patients of a facility so demand, for just and reasonable cause then appearing and to be stated in its order, amend or revoke a license by an order to take effect within such time as the department shall determine. This section shall not apply to any facility operated by the United States or any agency thereof."

SECTION 3. Section 334- of Section 4, Act 130, Session Laws of Hawaii 1976, is amended to read:

**"Sec. 334- Emergency examination and hospitalization.** (a) Initiation of proceeding. An emergency admission may be initiated as follows:

- (1) A police officer may take into custody and transport to any facility designated by the director any person who he has probable cause to believe is committing an offense due to apparent mental illness or substance abuse and appears to be imminently dangerous to property, to self or to others. A police officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide. The officer shall make application for the examination, observation and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to some physician at the facility.
- (2) Upon written or oral application of any licensed physician, attorney, member of the clergy, health or social service professional or any state or county employee in the course of his employment, a judge may issue an ex parte order orally, but shall reduce said order to writing by the close of the next day following the application, stating that there is probable cause to believe a person is mentally ill or suffering from substance abuse and is imminently dangerous to self, to others, or to property and in need of care and/or treatment, giving the findings on which the conclusion is based and directing that a police officer or other suitable individual take the person into custody and delivery him to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce said application to writing and shall submit same by noon of the next court day to the judges who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.
- (3) Any licensed physician who has examined a person and has reason to believe the person is (a) mentally ill or suffering from substance abuse, and (b) is imminently dangerous to self, to others, or to property, and (c) is in need of care and/or treatment, may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for

further evaluation and possible emergency hospitalization and may administer such treatment as is medically necessary for the person's safe transportation.

(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a facility designated by the director shall be examined by a licensed physician without unnecessary delay, and may be given such treatment as is indicated by good medical practice.

(c) Release from emergency examination. If the physician who performs the emergency examination concludes that the patient need not be hospitalized, the patient shall be discharged immediately unless the patient is under criminal charges, in which case he shall be returned to the custody of a law enforcement officer.

(d) Emergency hospitalization. If the physician who performs the emergency examination has reason to believe that the patient is (1) mentally ill or suffering from substance abuse, and (2) is imminently dangerous to self, to others, or to property, and (3) is in need of care and/or treatment, the physician may hospitalize him on an emergency basis and/or cause the patient to be transferred to another psychiatric facility for emergency hospitalization. The patient shall have the right immediately upon admission to telephone his guardian or a member of his family or an adult friend and his attorney. If the patient declines to exercise his right, the staff of the facility shall inform an adult patient of his right to waive notification to his family and shall make reasonable efforts to ensure that the patient's guardian or family is notified of the emergency admission but the patient's family need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with his attorney in private.

(e) Release from emergency hospitalization. If at any time during the period of emergency hospitalization the responsible physician concludes that the patient no longer meets the criteria for emergency hospitalization the physician shall discharge him. If the patient is under criminal charges, he shall be returned to the custody of a law enforcement officer. In any event, the patient must be released within forty-eight hours of his admission, unless the patient voluntarily agrees to further hospitalization, or a proceeding for a court-ordered evaluation and/or hospitalization is initiated as provided in section 334- (b)(2). If that time expires on a Saturday, Sunday or holiday, the time for initiation is extended to noon of the next court day. Upon initiation of the proceedings the facility shall be authorized to detain the patient until further order of the court."

**"Sec. 334- Admission for nonemergency treatment or supervision.**

**(a) Voluntary admission.**

- (1) Acceptance for voluntary inpatient treatment at a psychiatric facility shall be in accordance with usual standards for hospital admissions.
- (2) A facility may admit for evaluation, diagnosis, or treatment any individual under fifteen years of age for whom application is made by his parent or guardian. If application for admission is countersigned by a minor aged fifteen through seventeen years before a family court officer, no hearing shall be necessary. If he elects not to sign, involun-

tary hospitalization proceedings shall be initiated.

- (3) A facility shall discharge a voluntary patient who has sufficiently improved so that hospitalization is no longer desirable. A voluntary patient or his guardian, representative, or attorney may request discharge in writing at any time following admission to the facility. If discharge would be dangerous to the patient or others, proceedings for involuntary hospitalization must be initiated as soon as possible but within twenty-four hours of the receipt by the administrator of the written request for discharge. If that time expires on a Saturday, Sunday or holiday, the time for initiation is extended to noon of the next court day. Upon the initiation of the proceedings, the facility is authorized to detain the patient until further order of the court. If the patient was admitted on his own application and the request for discharge is made by a person other than the patient, the discharge may be conditioned upon the agreement of the patient.
- (4) Notice of right to release. At the time of his admission and each six months thereafter, a voluntary patient and his guardian or representatives shall be notified in writing of his right and how to apply for a discharge.
- (b) Involuntary hospitalization.
  - (1) Criteria. A person may be committed to psychiatric facility for involuntary hospitalization if the court finds:
    - (A) That the person is mentally ill or suffering from substance abuse, and
    - (B) That he is dangerous to himself or others or to property, and
    - (C) That he is in need of care and/or treatment, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization.
  - (2) Initiation of proceeding. Court-ordered commitment to a psychiatric facility may be initiated as follows:
    - (A) Any person may file a petition alleging that a person located in the county meets the criteria for commitment to a psychiatric facility. The petition shall be executed subject to the penalties of perjury but need not be sworn to before a notary public. The attorney general, his deputy, special deputy, or appointee designated to present the case shall assist the petitioner to state the substance of the petition in plain and simple language. The petition may be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the signs and symptoms relied upon by the physician to determine the person is in need of care and/or treatment and whether or not he is capable of realizing and making a rational decision with respect to his need for treatment. If the petitioner believes that further evaluation is necessary before commitment, the petitioner

may request such further evaluation.

- (B) In the event the subject of the petition has been given an examination, evaluation or treatment in a psychiatric facility within five days before submission of the petition, and hospitalization is recommended by the staff of the facility, the petition may be accompanied by the administrator's certificate in lieu of a physician's certificate.
- (3) Notice; waiver of notice; hearing on petition; waiver of hearing on petition.
  - (A) The court shall set a hearing on the petition and notice of the time and place of such hearing shall be served in accordance with, and to those persons specified in, a current order of commitment. If there is not current order of commitment, notice of the hearing shall be served personally on the subject of the petition and served personally or by certified or registered mail, return receipt requested, deliverable to the addressee only, on the subject's spouse, legal parents, adult children and legal guardian, if one has been appointed. If the subject of the petition has no living spouse, legal parent and adult children, or if none can be found, notice of the hearing shall be served on at least one of his closest adult relatives if any can be found. Notice of the hearing shall also be served on the public defender, attorney for the subject of the petition or other court-appointed attorney as the case may be. If the subject of the petition is a minor, notice of the hearing shall also be served upon the person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition if such person can be found within the state. Notice shall also be given to such other persons as the court may designate.
  - (B) The notice shall include the following:
    - (i) The date, time, place of hearing, a clear statement of the purpose of the proceedings and of possible consequences to the subject; and a statement of the legal standard upon which commitment is authorized;
    - (ii) A copy of the petition;
    - (iii) A written notice, in plain and simple language, that the subject may waive such a hearing by voluntarily agreeing to hospitalization, or with the approval of the court, to some other form of treatment;
    - (iv) A filled-out form indicating such waiver;
    - (v) A written notice, in plain and simple language, that the subject or his guardian or representative may apply at any time for a hearing on the issue of the subject's need for hospitalization, if he has previously waived such a hearing;
    - (vi) Notice that the subject is entitled to the assistance of an attorney and that the public defender has been notified of these proceedings;
    - (vii) Notice that if the subject does not want to be represented by

- the public defender he may contact his own attorney;
- (C) If the subject executes and files a waiver of the hearing, upon acceptance by the court following a court determination that the person understands his right and is competent to waive them, the court shall order the subject to be committed to a facility that has agreed to admit the subject as an involuntary patient or, if he is at such a facility, that he be retained there.
- (4) Hearing on petition.
- (A) The court may adjourn or continue a hearing for failure to timely notify a spouse, guardian, relative or other person determined by the court to be entitled to notice.
  - (B) The time and form of the procedure incident to hearing the issues in the petition shall be provided by court rule. Unless the hearing is waived, the judge shall hear the petition as soon as possible and no later than ten days after the date the petition is filed unless a reasonable delay is sought for good cause shown by the subject of the petition, his attorney, or those persons entitled to receive notice of the hearing under subsection (b)(3).
  - (C) The subject of the petition shall be present at all hearings unless he waives his right to be present, is unable to attend or creates conditions which make it impossible to conduct the hearing in a reasonable manner as determined by the judge. A waiver is valid only upon acceptance by the court following a judicial determination that the person understands his rights and is competent to waive them or is unable to participate. If the subject is unable to participate, the judge shall appoint a temporary guardian as provided in Article V, Uniform Probate Code, to represent him throughout the proceeding.
  - (D) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested person, or the court on its own motion may request a hearing in another circuit because of convenience to the parties, witnesses, or the court or because of the individual's mental or physical condition.
  - (E) The attorney general, his deputy, special deputy, or appointee shall present the case for hearings convened under this chapter, except that the attorney general, his deputy, special deputy, or appointee need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for involuntary hospitalization.
  - (F) Counsel for the subject of the petition shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present the evidence that counsel believes necessary to a proper disposition of the proceedings, including evidence as to alternatives to inpatient hospitalization.
  - (G) No individual may be found to require medical treatment unless at least one physician who has personally examined him testifies in

person at the hearing. This testimony may be waived by the subject of the petition. If the subject of the petition has refused to be examined by a licensed physician, he may be examined by a court-appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the petition are true, the court may make a temporary order committing him to a psychiatric facility for a period of not more than five days for the purpose of a diagnostic examination and evaluation. The subject's refusal shall be treated as a denial that he is mentally ill or suffering from substance abuse. Nothing herein, however, shall limit the individual's privilege against self-incrimination.

- (H) The subject of the petition in a hearing under this section has the right to secure an independent medical evaluation and present evidence thereon.
  - (I) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, or other rehabilitative treatment or supervision, the court shall order that he be discharged if he has been hospitalized prior to the hearing. If the court finds beyond a reasonable doubt that the criteria for involuntary hospitalization has been met, the court may issue an order to any police officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. An order of commitment shall specify which of those persons served with notice pursuant to subsection (b) (3), together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit.
  - (J) The court may find that the subject of the petition is an incapacitated and/or protected person under Article V, Uniform Probate Code, and may appoint a guardian of the person and/or property for the subject under the terms and conditions as the court shall determine.
- (5) Period of detention. The psychiatric facility may detain a subject for a period of time ordered by the court not to exceed ninety days from date of admission unless sooner discharged by the facility pursuant to section 334-76 or section 334-74. At the end of the ninety-day period he shall be discharged automatically except as provided in sections 704-406, 704-411, and 706-607, Hawaii Penal Code, unless before expiration of the period and by a proceeding initiated pursuant to this section the facility obtains a court order for his recommitment. Recommitment for a period not to exceed ninety days may not be ordered unless the court determines that the criteria for involuntary hospitalization set forth in subsection (b) (1) continue to exist. If at the end of a

recommitment period the court finds that the criteria for involuntary hospitalization set forth in subsection (b) (1) continue to exist and are likely to continue beyond ninety days, the court may order recommitment for a period not to exceed 180 days.

- (6) Notice of intent to discharge. When the administrator of a psychiatric facility contemplates discharge of an involuntary patient because of expiration of the court order for commitment or because the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization at subsection (b) (1), he shall provide notice of intent to discharge. The notice shall be filed with the court and served personally or by certified mail on those persons which the order of commitment specifies as entitled to receive notice. If no objection is filed within three days of service, the court shall enter an order of discharge. If any person specified as entitled to receive notice files a written objection to discharge, the court shall conduct a hearing prior to issuing an order of discharge."

**"Sec. 334- Presumption; civil rights.** No presumption of insanity or legal incompetency shall exist with respect to any patient by reason of his admission to a psychiatric facility under this chapter. The fact of the admission shall not in itself modify or vary any civil right of any such person, including but not limited to civil service statutes or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law, or the right to dispose of property, execute instruments, make purchases, enter into contractual relationships and to vote. If the administrator of a psychiatric facility or his deputy is of the opinion that a patient should not exercise any civil right, application for a show cause order shall be made to the court under the above proceedings after notice pursuant to section 334- (b)(3)."

**"Sec. 334- Service of process and papers upon patients.** (a) Service of process and papers upon a patient in a psychiatric facility or a patient on authorized or unauthorized absence from a psychiatric facility shall be made in the following manner:

- (1) Service of process and papers relating to the involuntary hospitalization of the patient shall be made directly and personally upon the patient and shall also be made personally or by certified mail upon his guardians and the public defender, his attorney or court-appointed attorney; otherwise, service upon the patient shall be incomplete. A copy of the legal process or paper served on a patient under this paragraph shall be given to the administrator of the psychiatric facility or his deputy and shall be filed with the records of the patient.
- (2) Service of process and papers not relating to the involuntary hospitalization of the patient shall be made directly and personally upon the patient, his guardians, and the administrator of the psychiatric facility or his deputy; otherwise, service upon the patient shall be incomplete and shall not give the issuing court or agency jurisdiction over the person of the patient. A legal process or paper served under this paragraph shall be filed with the records of the patient, and the administra-

tor of the psychiatric facility or his deputy shall immediately inform the court or other agency out of which the process or paper issued, in writing, of the date of service and of the mental and physical condition of the patient.

(b) Neither the administrator nor anyone connected with a psychiatric facility shall accept service of process or papers on behalf of a patient."

SECTION 4. Section 334-71, Hawaii Revised Statutes is amended to read:

**"Sec. 334-71 Transfer of patients between facilities.** A patient at a psychiatric facility, including those held on court order, may be transferred to another psychiatric facility when the administrator of the sending facility determines that it would be in the best interests of the patient that the patient be transferred and the administrator of the receiving facility agrees to accept the patient; provided that prior notice of such transfer be given to the subject of such transfer and to those persons specified in a current order of commitment. If there is no current order of commitment, notice shall be given to those persons enumerated in section 334- (b)(3)."

SECTION 5. Section 334-74, Hawaii Revised Statutes, is amended to read:

**"Sec. 334-74 Transfer of residents of correctional facilities.** If any resident of a state correctional facility is in need of hospital treatment for mental illness or substance abuse, the director of social services and housing or the officer in charge of the correctional facility may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist employed by the department of health showing the need for such hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of social services and housing, and, if the continued hospitalization of the resident beyond the expiration of the period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident's release from the state correctional facility; provided that a judicial hearing pursuant to section 334- (b) be held by the same circuit court that sentenced such resident. In the event that discharge from the hospital occurs before the expiration of the maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility. As used in this section, "resident" means any person serving a sentence in a state correctional facility or any child or minor detained in a state correctional facility."

SECTION 6. Chapter 334, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 334-76 Discharge from custody.** Subject to any special requirements of law as provided in sections 704-406, 704-411 and 706-607 or elsewhere, with respect to patients committed on court order, the administrator of a psychiatric facility shall, pursuant to section 334- (b)(6), send a notice of intent to discharge

to those persons specified in the order of commitment as entitled to receive notice of intent to discharge and the administrator or his deputy or the physician assuming medical responsibility for the patient, shall discharge an involuntary patient when he is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization at section 334- (b)(1)."

SECTION 7. Section 334-81, Hawaii Revised Statutes, is amended to read:

"Sec. 334-81 Request for hearing. At any time after the admission of a patient to a psychiatric facility under Part IV of this chapter or after the transfer of a patient to another psychiatric facility under section 334-71, he or, on his behalf, any member of his family, relative, friend, or responsible person, may obtain a judicial determination of the regularity of his admission or of the need for his continued hospitalization by filing a written request therefor in the family court of the circuit in which the psychiatric facility is located. The form of the request shall be prescribed and supplied free of charge by the court, and the proceedings in connection therewith shall be styled "In the Interest of (the named patient)." The administrator of the psychiatric facility shall assist the patient in obtaining legal counsel if the patient objects to his admission or continued hospitalization."

SECTION 8. The provisions of this Act are severable; if any provision or application of this Act is held invalid, such invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 10. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 77

S.B. NO. 485

A Bill for an Act Relating to Reconstructed Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

" "Reconstructed vehicle" means a vehicle registered to be operated on a public highway which:

- (A) Is assembled from new or used parts by a person other than a recognized manufacturer of new vehicles;
- (B) Is modified to the extent that the identity of its make, model, or type is obscured by material changes in its appearance; or
- (C) Is modified by the removal, addition, alteration, or substitution of

\*Edited accordingly.

other than original replacement essential parts, including but not limited to its body, power train, steering system, suspension system, exhaust system, intake system, or bumper system; excluding ordinary body repair which does not change the exterior structure of the vehicle.

SECTION 2. Chapter 286, Part IV, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 286- Reconstructed vehicles, approval required.** (a) No person shall operate a reconstructed vehicle upon a public highway unless it has been inspected and certified by the designated county agency as meeting the specifications and requirements established in rules and regulations adopted by the state highway safety coordinator.

(b) This section shall not apply to any vehicle which is subject to the rules and regulations of the public utilities commission governing safety of operation and equipment.

(c) Each county through its Chief Executive Officer, shall designate a county department, whose responsibilities shall include the inspection of reconstructed vehicles and the issuance of permits to operate reconstructed vehicles pursuant to standards established by the state highway safety coordinator.

(d) The state highway safety coordinator shall adopt rules pursuant to chapter 91, establishing the fees an inspector may charge for the inspection of a reconstructed vehicle.

(e) The department designated pursuant to subsection (c) shall identify to the county treasurer every vehicle that has been inspected and approved as a reconstructed vehicle."

SECTION 3. Section 386-42, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-42 County treasurer's duties.** The county treasurer shall examine and to the best of his ability determine the genuineness and regularity of every registration and transfer of registration of a vehicle as in this part provided, in order that every certificate issued for a vehicle shall contain true statements of the ownership thereof, and to prevent the registration of a vehicle by any person not entitled thereto, and the treasurer may require any applicant to furnish such information, in addition to that contained in the application, as may be necessary to satisfy the treasurer of the truth and regularity of the application.

For the purpose of registering standard makes and body types of new passenger motor vehicles the treasurer may accept the certificate of any licensed motor vehicle dealer certifying to the weight and identification of such vehicle. The treasurer of any county may accept the certificate of the treasurer of any other county as to weight and identification of any such vehicle.

In the event the treasurer is not satisfied as to the ownership of any vehicle sought to be registered, unless the applicant presents satisfactory evidence to the treasurer of the applicant's ownership of the vehicle and as to any liens thereon, the treasurer may accept from the applicant a bond or securities in such form as may be determined by the treasurer in an amount equal to the value of the vehicle. The bond or securities and the deposit thereof shall be conditioned to protect the treasurer and any subsequent purchaser of the vehicle or person

acquiring any lien thereon or the successor in interest of any such person against any loss or damage on account of any defect in or undisclosed encumbrance upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person shall have a right of action to recover on any such bond or securities for any breach of the conditions for which the same was deposited. The aggregate liability of the surety to all such persons shall in no event exceed the amount of the bond and interest thereon, plus a reasonable attorney's fee to be allowed by the court incurred to procure the recovery under the bond. The bond or securities shall (unless suit has been instituted thereon) be returned and surrendered at the end of three years or prior thereto in the event that the vehicle is no longer registered and the currently valid certificate of ownership is surrendered to the treasurer. Any licensed dealer who has filed and has in effect a bond of an amount in excess of the value of any vehicle in question shall not be required to furnish an additional bond under this section.

Whenever the registration of any motor vehicle discloses that it is adapted for the use of a fuel other than gasoline, the treasurer shall inform the director of taxation of such registration, and upon each transfer of any such motor vehicle the director shall be informed thereof.

The county treasurer, upon being notified by the designated county development that a vehicle has been inspected and approved as a reconstructed vehicle, shall cause that fact to be shown upon the registration certificate and registration records for that vehicle."

**SECTION 4.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

**SECTION 5.** This Act shall take effect upon its approval.

(Approved May 12, 1977.)

**ACT 78**

**S.B. NO. 572**

**A Bill for an Act Relating to Planning and Development of Kauai.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 3, Act 82, Session Laws of Hawaii 1973, is amended to read as follows:

"**SECTION 3.** There is hereby appropriated out of the general revenues or general obligation bond fund of the State of Hawaii, to be expended by the governor, the sum of \$3,500,000, or so much thereof as may be necessary, for planning and economic development of Kauai. The governor's power to expend such moneys shall include, but not be limited to, the power to institute such loan programs as he deems appropriate. Moneys may be expended for materials, salaries, equipment, and other costs related to providing staff support services. The Kauai Task Force Loan Specialist hired under this Act shall be exempt from chapters 76 and 77 of the Hawaii Revised Statutes."

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\*Edited accordingly.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 79

S.B. NO. 577

A Bill for an Act Relating to Noise Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part II of Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 291- Motor vehicle muffler.** (a) No person shall use on a public highway, sell, alter or install a muffler which will noticeably increase the noise emitted by a motor vehicle above that emitted by the vehicle as equipped from the factory.

(b) Any violation of this section shall constitute a violation and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$250 for each separate offense. Any person who violates the provisions of this section may be issued a summons or citation for such violation."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 80

S.B. NO. 1193

A Bill for an Act Relating to Improvements at Waikiki, Oahu.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and purpose. This bill extends the lapsing date on state appropriations for Waikiki improvements and thereby permits the expenditure of the funds through March 1, 1978. The appropriation would otherwise lapse as of June 30, 1977 under the provisions of section 14 of Act 197, Session Laws of Hawaii 1971, as amended by Act 115, Session Laws of Hawaii 1976.

The legislature finds that the Waikiki improvements are a special case deserving of this limited extension. The improvement of the Waikiki area is generally recognized as being of immediate importance to the tourism industry and the economy of the State as a whole. The impasse between the State and the city and county which delayed the expenditure of these funds appears to be

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\*Edited accordingly.

resolved, and the additional year should be sufficient to encumber the remaining funds.

SECTION 2. Any other provision of law to the contrary notwithstanding, the appropriation for item 67 in section 2, part I, subsection K of Act 197, Session Laws of Hawaii 1971, as amended, shall lapse as of March 1, 1978 if unencumbered as of that date.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 81

H.B. NO. 96

A Bill for an Act Relating to Child Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to better protect Hawaii's children from all forms of child abuse by amending the child abuse law and to allocate additional resources for the purpose of child protective services.

SECTION 2. Section 350-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 350-1 Reports.** (a) Any doctor, which for the purposes of this chapter means any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, medical examiner or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect by parents or those responsible for that child's care shall promptly report the matter orally to the department of social services and housing; provided that when examination, attendance, or treatment with respect to the minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, the staff member shall immediately notify the person in charge of the medical facility, or his designated delegate, who shall report or cause reports to be made in accordance with this chapter.

Abuse or neglect of a minor for the purposes of this chapter means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened thereby.

The initial oral report shall be followed as soon as possible by a report in writing. The report shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

Any other person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the department of social services and housing.

(b) The director of social services and housing may adopt, amend, or repeal rules, subject to chapter 91, to further define the specific forms of child abuse and neglect enumerated by section 350-1 (a) for use in implementation of this chapter; provided that rules adopted under this section shall be limited to such definitions."

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon approval.

(Approved May 12, 1977.)

ACT 82

H.B. NO. 193

A Bill for an Act Relating to the Employees' Retirement System of the State of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-82, Hawaii Revised Statutes, is amended to read:

"**Sec. 88-83 Election of mode of retirement allowance.** (a) Maximum allowance: Upon retirement, any member may elect to receive the maximum retirement allowance to which he is entitled computed in accordance with the provisions described under sections 88-74, 88-76, 88-79, or 88-80 of this part and in the event of his death, there shall be paid to his beneficiary, otherwise to his estate, the difference between the balance of his accumulated contributions at the time of his retirement and the retirement allowance paid or payable to him prior to death.

In lieu of this maximum allowance, he may elect to receive his retirement allowance under any one of the optional plans described below, which shall be actuarially equivalent to the maximum allowance.

Option 1: The member may elect to receive a lesser retirement allowance during his lifetime. At his retirement, there shall be established an amount of initial insurance which shall be computed on the basis of actuarial factors adopted by the board of trustees. Upon the death of the retirant, any balance remaining in the initial insurance reserve after deducting the retirement allowance paid to the retirant prior to death, shall be paid to his beneficiary, otherwise to his estate. In lieu of the lump sum balance, the beneficiary may elect to receive payment in one of the following ways: (1) an allowance for life based on the value of the balance provided that the allowance is not less than \$10 per month; or (2) cash payment in part and a reduced allowance for life based on the value of the remaining balance provided that the allowance is not less than \$10 per month.

Option 2: The member may elect to receive a lesser retirement allowance during his lifetime and have such allowances continued after his death to his

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\*Edited accordingly.

beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 3: The member may elect to receive a lesser retirement allowance during his lifetime and have one-half of such allowance continued after his death to his beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 4: The member may elect to receive a lesser retirement allowance during his lifetime and provide some other benefit to his beneficiary in accordance with his own specification; provided, however, that such election shall be certified by the actuary to be the actuarial equivalent of his retirement allowance and shall be approved by the board.

Option 5: The member may elect to receive the balance of his accumulated contributions at the time of retirement in a lump sum and, during his lifetime a retirement allowance equal to the maximum retirement allowance reduced by the actuarial equivalent of these contributions. Upon the death of the retirant, all further payments shall cease. Only a member retiring for service having at least ten years of credited service or for disability may elect this mode of retirement.

To receive benefits, the beneficiary must have been designated by the member in such form and manner as is prescribed by the board.

In the event of the death of the retirant within one year after the date of retirement, his beneficiary may elect to receive either the death benefits under the mode of retirement selected, or in lieu thereof, such benefits as would have been paid had the retirant died immediately prior to retirement, less any payments which the retirant received. Any election of a mode of retirement allowance shall be irrevocable.

(b) Section 88-84 to the contrary notwithstanding, in the event of the death of a member due to a terminal illness within thirty days after the date of the filing of his written application to retire, the designated beneficiary, otherwise the personal representative of his estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of his retirement; provided that:

- (1) It is proved that the deceased member was not notified by his licensed attending physician of the terminal nature of his illness more than thirty days prior to his death; and
- (2) The licensed attending physician was aware of the terminal nature of the disease more than thirty days before the death of the member but deemed it advisable for the mental or physical well-being of his patient not to notify him of the terminal nature of the illness.

(c) The board may prescribe the form of an affidavit to be filled out by the licensed attending physician; provided, that the form shall contain the following information and such other information as required by the board:

- (1) The date when the licensed attending physician discovered the nature of the terminal illness;

- (2) The terminal illness involved;
- (3) The date when the member was notified of the nature of the terminal illness; and
- (4) The date of death of the deceased member.

If the facts stated in the affidavit conform with all of the requirements of this section, and a licensed physician verifies the cause of death as being due to the terminal disease identified by the licensed attending physician in his affidavit, then the board shall provide benefits in accordance with the optional mode of retirement selected by the member prior to his death.

Any election of a mode of retirement shall be irrevocable."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 83

H.B. NO. 194

A Bill for an Act Relating to Investments of Retirement System Funds in Insurance Company Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-119, Hawaii Revised Statutes, is amended to read:

"**Sec. 88-119 Investments.** Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431-286) of any of the following classes:
  - (A) Obligations secured by mortgages of non-profit corporations desiring to build multi-rental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.
  - (B) Obligations secured by mortgages insured by the federal housing administration.
  - (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act.
  - (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed 75 per cent of the value of the real estate mortgage to secure it, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed 80 per cent of the real estate mortgaged to secure it. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions,

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\*Edited accordingly.

charges or claims described in section 431-293(a).

- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (i) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed 75 per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed 80 per cent of the value of the respective leasehold interest and improvements.  
 The board of trustees may retain such real estate (including leasehold interests therein) as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted, provided that all such real estate (other than leasehold interests) shall be sold within five years after acquiring the same (subject to extension by the governor for additional periods not exceeding five years each) and all such leasehold interests shall be sold within one year after acquiring the same (subject to extension by the governor for additional periods not exceeding one year each).
- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian homes lands pursuant to section 208 of the Hawaiian Homes Commission Act, 1920.
- (2) Government obligations, etc. Obligations of any of the following classes:
  - (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing, provided that principal of and interest on such obligations are payable in currency of the United States.
  - (B) Revenue bonds (whether or not permitted by any other provision hereof) of the State or any municipal or political subdivision thereof (including the board of water supply of the city and county of Honolulu), and street or improvement district bonds of any district or project in the State.
  - (C) Obligations issued or guaranteed by any federal home loan bank (including consolidated federal home loan bank obligations), the home owner's loan corporation, the federal national mortgage association, or the small business administration.
- (3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
  - (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a

period of five fiscal years next preceding the date of the investment have equalled at least one hundred and fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred and fifty per cent of its fixed charges for such year.

- (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in clause (A) above.
- (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in clause (A) above.

As used in this subsection, the terms "fixed charges" and "net earnings available for fixed charges" shall have the meanings and application ascribed thereto in sections 431-286 and 431-287.

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof, provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks.
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank or by the Asian Development Bank.
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations.
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto

are comprised of stocks or other securities or of real or personal property or interests therein.

- (9) Other securities. Securities and stock in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, whether or not the securities or stock are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing subsections (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon approval.

(Approved May 12, 1977.)

ACT 84

H.B. NO. 197

A Bill for an Act Relating to Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

"**Sec. 76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personnel services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;

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\*Edited accordingly.

- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (17);
- (10) Assistant and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in research projects approved by the governor, for which projects federal funds are available, provided the period of employment shall not exceed one year;
- (13) Election inspectors, election clerks and other election employees;
- (14) Positions filled by inmates, kokua, and patients of State institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as federal Comprehensive Employment and Training Act of 1973;
- (15) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (16) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (17) Positions of first deputies or first assistants of each department head

appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; and an administrative assistant to the superintendent of education;

- (18) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (19) Positions in the state foster grandparents program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
- (20) Household employees at the official residence of the president of the University of Hawaii;
- (21) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 85

H.B. NO. 207

A Bill for an Act Relating to the Enforcement of the Employment Practices Law and Amending Chapter 378, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 378-3, Hawaii Revised Statutes, is amended to read:

\*Edited accordingly.

**"Sec. 378-3 Enforcement jurisdiction; power of department to prevent unlawful discrimination.** (a) The department of labor and industrial relations, hereinafter referred to as "department", shall have jurisdiction over the subject of employment practices and discrimination made unlawful by this part. When it appears to it that an unlawful employment practice or discrimination may have been committed, the department shall make a prompt investigation in connection therewith. If it is determined after such investigation that further action is warranted, the department shall immediately endeavor to eliminate the unlawful employment practice or discrimination complained of by conference, conciliation, and persuasion.

(b) If the department is unable to eliminate the unlawful employment practice or discrimination, it shall state its findings in a letter of accusation and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from such unlawful employment practice or discrimination and to take such affirmative action, including (but not limited to) hiring, reinstatement, or upgrading of employees, with or without back pay, or restoration to membership in any respondent labor organization, as in the judgment of the department, will effectuate the purpose of this part, and including a requirement for report of the manner of compliance.

(c) If the department is unable to secure from the respondent a conciliation agreement acceptable to the department, the department may upon the written request of the complainant bring any legal action necessary to enjoin the respondent from engaging in such unlawful employment practice or discrimination and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay, or any other equitable relief as the court deems appropriate. The court in any action brought under this part shall in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of action, including costs of fees of any nature, and reasonable attorney's fees, to be paid by the defendant. The director shall not be required to pay the filing fee or other costs or fees of any nature or to file a bond or other security of any nature in connection with such action or with proceedings supplementary thereto, or as a condition precedent to the availability to the director of any process in aid of such action and proceedings. The director may join various complainants in one cause of action.

(d) If any judgment obtained by the director against the respondent for violation of this part remains unsatisfied for a period of thirty days after the time to appeal therefrom has expired and no appeal is pending or after such judgment has been finally affirmed on appeal, the director may institute proceedings in the name of the State in the circuit court of the circuit in which the respondent has his principal place of business to compel the respondent to cease doing business until the judgment has been satisfied.

(e) If the department finds that a union, employer, labor organization or employment agency has not engaged in any such unlawful employment practice or discrimination, the department shall so notify the complainant.

(f) Whenever it appears to the director that any union, employer, labor organization or employment agency is engaged in any act or practice which constitutes or will constitute a violation of this part, or any related regulation, he

may in his discretion bring an action in the circuit court of the circuit in which it is charged the act or practice complained of occurred to enjoin the act or practice and to enforce compliance with this part or with the regulation, and upon a proper showing, a permanent or temporary injunction or decree or restraining order shall be granted without bond."

SECTION 2. Sections 378-5, 378-6, and 378-7, Hawaii Revised Statutes, are hereby repealed.

SECTION 3. Section 378-10, Hawaii Revised Statutes, is amended to read:

"Sec. 378-10 Penalties. Whoever wilfully resists, prevents, impedes, or interferes with the department or any of its agents or representatives in the performance of duties pursuant to this part, or who in any manner wilfully violates an order of the department of labor and industrial relations, shall be fined not more than \$500, or imprisoned for not more than ninety days, or both."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 86

H.B. NO. 208

A Bill for an Act Relating to Extending the Work Hours Limitation of Minors Under 16 Years of Age and Amending Chapter 390 of the Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 390-2, Hawaii Revised Statutes, is amended to read:

"Sec. 390-2 Employment of minors under eighteen years of age. (a) No minor under eighteen years of age shall be employed or permitted to work in, about or in connection with any gainful occupation at any time except as otherwise provided in this section. In no event, however, shall the minor be permitted to be employed or permitted to work in, about or in connection with any gainful occupation prohibited by law or which has been declared by rule or regulation of the director to be hazardous for the minor.

(b) A minor who has attained the age of sixteen years but not eighteen years may be employed during periods when he is not legally required to attend school or when he is excused by school authorities from attending school; provided that the employer of the minor records and keeps on file the number of a valid certificate of age issued to the minor by the department.

(c) A minor who has attained the age of fourteen years but not sixteen years may be employed or permitted to work:

(1) During periods when he is not legally required to attend school or when

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\*Edited accordingly.

- he is excused by school authorities from attending school; and
- (2) If the employer of the minor procures and keeps on file a valid certificate of employment; and
  - (3) No more than five hours continuously without an interval of at least thirty consecutive minutes for a rest or lunch period; and
  - (4) No more than six consecutive days nor more than forty hours in any one week, nor more than eight hours in any one day, nor before 7:00 a.m. nor after 7:00 p.m. of any day; provided that from June 1 through the day before Labor Day of each year he may be employed between 6:00 a.m. and [8:00] 9:00 p.m. The combined hours of work and hours in school of the minor employed outside school hours shall not exceed ten in a day.
- (d) A minor under fourteen years of age may be employed or permitted to work in theatrical employment or in harvesting coffee under circumstances and conditions prescribed by the director by regulation; provided that:
- (1) The work is performed during periods when he is not legally required to attend school or when he is excused by school authorities from attending school;
  - (2) With respect to employment in harvesting of coffee, the director has determined after a public hearing that sufficient adult labor to perform the work is unavailable; and
  - (3) The employer of the minor procures and keeps on file a valid certificate of employment."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 87

H.B. NO. 210

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Funeral and burial allowance. Where a work injury causes death, the employer shall pay funeral expenses not to exceed \$1,000 to the mortician and burial expenses not to exceed \$500 to the cemetery selected by the family or next of kin, of the deceased or in the absence of such family or next of kin, by the employer. Such payments shall be made directly to the mortician and cemetery; provided that when the deceased has a pre-paid funeral and burial plan such payments for funeral and burial expenses, not to exceed the foregoing limits, shall be made directly to the surviving spouse or the decedent's estate if there is no surviving spouse."

SECTION 2. Statutory material to be repealed is bracketed. New material

## ACT 88

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

## ACT 88

H.B. NO. 211

A Bill for an Act Relating to Temporary Disability Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 392, Hawaii Revised Statutes, is hereby amended by adding a new section to read:

**"Sec. 392-43.5 Payments of premium for ineligible employees not permitted.** An insurer providing benefits for the employees of an employer or an association of employers, shall not require the payment of premiums from such employer or association of employers for employees who do not meet the eligibility requirements of section 392-25. However, in the case of employees who concurrently work for more than one employer and are deemed eligible to receive benefits by combining the wages earned and hours worked of the two or more employments, the insurer shall require the payment of premiums in accordance with section 392-43. The employers or association of employers shall ensure that eligible employees with concurrent employments are provided the required coverage.

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon approval.

(Approved May 12, 1977.)

## ACT 89

H.B. NO. 212

A Bill for an Act Relating to the Payment of Wages and Other Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 388-10, Hawaii Revised Statutes, is amended to read:

**"Sec. 388-10 Penalties.** (a) Civil. Any employer who fails to pay wages in accordance with this chapter without equitable justification shall be liable to the employee, in addition to the wages legally proven to be due, for a sum up to the amount of unpaid wages.

(b) Criminal. Any employer who does not pay the wages of any of his employees in accordance with this chapter or any officer of any corporation who knowingly permits the corporation to violate this chapter by failing to pay wages of any of its employees in accordance with this chapter, or any employer or his agent or any officer or agent of a corporation who discharges or in any other

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\*Edited accordingly.

manner discriminates against any employee because the employee has made a complaint to his employer, or to the director, or to any other person that he has not been paid wages in accordance with this chapter, or has instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding, or any employer who wilfully fails to comply with any other requirements of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$10,000 or imprisoned for no more than one year, or punished by both fine and imprisonment for each such offense."

SECTION 2. Material to be repealed is bracketed. New material is underseored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 90

H.B. NO. 213

A Bill for an Act Relating to Withholding of Wages.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 388-6, Hawaii Revised Statutes, is amended to read:

"**Sec. 388-6 Withholding of Wages.** No employer may deduct, retain, or otherwise require to be paid, any part or portion of any compensation earned by any employee except where required by federal or state statute or by court process or when such deductions or retentions are authorized in writing by the employee, provided that the following may not be so authorized, or required to be borne by the employee:

- (1) Fines;
- (2) Cash shortage in a common money till, cash box, or register used by two or more persons; or cash shortage in a money till, cash box, or register under sole control if the employee is not given an opportunity to account for all monies received at the start of a shift and all monies turned in at the end of a shift;
- (3) Fines, penalties, or replacement costs for breakage;
- (4) Losses due to acceptance by an employee of checks which are subsequently dishonored if employee is given discretion to accept or reject any check;
- (5) Losses due to defective or faulty workmanship, lost or stolen property, damage to property, default of customer credit, or nonpayment for goods or services received by customer if such losses are not attributable to employee's wilful or intentional disregard of employer's interest; or
- (6) Medical or physical examination or medical report expenses which

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\*Edited accordingly.

## ACT 91

accrue due to services rendered to an employee or prospective employee, where such examination or report is requested or required by the employer or prospective employer or required by any law or regulation of federal, state or local governments or agencies thereof."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

## ACT 91

H.B. 217

A Bill for an Act Relating to Prepaid Health Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 393, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 393-24 Noncomplying employer held liable for employee's health care costs.** Any employer who fails to provide coverage as required by this chapter shall be liable to pay for the health care costs incurred by an eligible employee during the period in which the employer failed to provide coverage."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon approval.

(Approved May 12, 1977.)

## ACT 92

H.B. 218

A Bill for an Act Relating to the Wage and Hour Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 387, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 387- Provisions of law may not be waived by agreement.** No provision of this chapter may in any way be contravened or set aside by private agreement."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

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\*Edited accordingly.

## ACT 93

H.B. NO. 228

## A Bill for an Act Relating to Foreign Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 418-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 418-1 Declaration.** Every corporation organized under the laws of any other jurisdiction which undertakes to do or transact business in this State shall file in the office of the director of regulatory agencies:

- (1) A declaration sworn to on oath by two authorized officers of the corporation stating:
  - (A) The name of the corporation;
  - (B) The state wherein it was incorporated;
  - (C) The address of its principal office;
  - (D) The address of its proposed branch office or offices in the State;
  - (E) The names and addresses of its officers and directors;
  - (F) The amount of its paid up capital stock;
  - (G) The total value of the property owned and used by it in its business;
  - (H) The nature and total value of the property to be acquired by it for use in the State within the following 12 months;
  - (I) The total dollar amount of business transacted by it during its preceding fiscal year;
  - (J) The nature of the business to be transacted in the State;
  - (K) The name and business address of the person residing within the State upon whom legal notice and process from the courts of the State, or notices from officials of the State, may be served.
- (2) A copy of the articles of incorporation as amended to the date of the declaration, certified to by the proper officer of the state where the corporation was organized need not be filed except upon request by the director of regulatory agencies.
- (3) A certificate setting forth that such corporation is in good standing under the laws of the jurisdiction of its incorporation executed by the official of such jurisdiction who has custody of the records pertaining to corporations and dated not earlier than 30 days prior to the filing of the declaration. If such certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto."

SECTION 2. Section 418-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 418-2 Same; by nonprofit corporation.** Any corporation organized without capital stock under the laws of any other jurisdiction for any lawful purpose except the carrying on of a business, trade, avocation or profession for profit which undertakes to do or transact business in this State shall file in the office of director of regulatory agencies:

- (1) A declaration sworn to on oath by two authorized officers of the corporation stating:
  - (A) The name of the corporation;
  - (B) The state wherein it was incorporated;

- (C) The address of its principal office;
  - (D) The address of its proposed branch office or offices in the State;
  - (E) The name and addresses of its officers and directors, if any;
  - (F) The nature of the business to be transacted in the State;
  - (G) The name and business address of the person residing within the State upon whom legal notice and process from the courts of the State, or notices from officials of the State, may be served.
  - (H) That the corporation is not organized for profit and that it will not issue any stock, and no part of its assets, income, or earning shall be distributed to its members, directors, or officers, except for services actually rendered to the corporation.
- (2) A copy of the articles of incorporation as amended to the date of the declaration, certified to by the proper officer of the state wherein the corporation was organized need not be filed except upon request by the director of regulatory agencies.
  - (3) A certificate setting forth that such corporation is in good standing under the laws of the jurisdiction of its incorporation executed by the official of such jurisdiction who has custody of the records pertaining to corporations and dated not earlier than 30 days prior to the filing of the declaration. If such certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto."

SECTION 3. Section 418-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 418-5 Additional requirements in case of amendment of charter, merger or consolidation.** Every foreign corporation qualified to do business in this State which shall amend its charter so as to change its corporate name or effect a reduction of its capital or shall be a party to a merger or consolidation shall, within 30 days after the time the amendment or merger or consolidation becomes effective, file with the director of regulatory agencies a certificate by the official who has custody of the records pertaining to corporations in the jurisdiction in which the corporation shall have been incorporated, certifying as to the change of name, reduction in capital, merger or consolidation. If such certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto. A copy of the amendment or a copy of the articles of merger or consolidation, duly certified by the proper officer of the jurisdiction in which the corporation shall have been incorporated, shall be filed with the director of regulatory agencies if the director so requests."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Boards and Commissions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 92-17 Consumer complaints; procedures and remedies.** (a) All boards established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint which establishes an alleged violation of any provision of law or rule that is within its jurisdiction, the board shall notify the licensee or person regulated of the charges against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally after investigation. If the board finds that the charge constitutes a violation the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding to the complainant the money paid as fees for services;
- (2) Correcting the work done in providing services to the satisfaction of the complainant;
- (3) Revocation of the licensee's permit or license; and
- (4) Suspension of the licensee's permit or license; and
- (5) Any other reasonable means to secure relief for the complainant as determined by the board.

(c) For refusal on the part of the licensee or person regulated to provide the relief which it has ordered as appropriate to the complainant, the board may apply judicially for injunctive relief, provided that the remedy at law is otherwise inadequate, and such refusal shall also constitute grounds for the suspension or revocation of the license or permit, subject to rules established by the board. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

(d) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

(e) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to the provisions of chapter 658. In the event of any such agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b) of this section; provided that any such order or dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen any such proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b) of this section.

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by

the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for such purpose by the department of regulatory agencies."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

ACT 95

H.B. NO. 685

A Bill for an Act Relating to Public Purchases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-10, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 103-10 Payment for goods and services.** Any person who renders a proper statement for goods delivered or services performed, pursuant to contract, to any agency of the State or any county, shall be paid no later than sixty calendar days following receipt of the statement. In the event circumstances prevent the paying agency from complying with this section, the person shall be entitled to interest from the paying agency on the principal amount remaining unpaid at a rate of one per cent per month commencing on the sixtieth day following receipt of the statement. This section shall not apply in those cases where delay in payment is due to a bonafide dispute between the State and the contractor concerning the services or goods contracted for. This section shall apply only to those cases where payment is withheld arbitrarily or erroneously. Where the time of payment is contingent upon the receipt of federal funds, or federal approval, the solicitation of bids for contracts shall clearly state that payment is contingent upon such conditions. If the solicitation for bids contains the warning and a contract is awarded in response to the solicitation then interest will not begin to accrue upon any unpaid voucher until the sixtieth day following receipt by the State of the contractor's statement, or the thirtieth day following receipt of the federal funds or approval, whichever occurs later."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

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\*Edited accordingly.

## ACT 96

H.B. NO. 1247

A Bill for an Act Relating to Milk Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 157-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately designated and to read as follows:

““Order” means an order or agreement issued by the board under this chapter prescribing rules and regulations adopted pursuant to chapter 91, pertaining to the production, transportation, processing, storage, distribution, and delivery of milk, and the establishment of quotas and the setting of minimum prices of milk within any milk shed in the State during any specified period or periods.”

SECTION 2. Section 157-31, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 157-31 Petition to establish, revise, or terminate minimum prices and quotas.** (a) Upon petition by the producers and producer-distributors who produce fifty-five per cent of the milk in a milk shed, or by fifty-five per cent of all producers in a milk shed, or upon the board’s own motion, the board shall hold a public hearing pursuant to chapter 91 to establish, revise or terminate the minimum prices for milk to be paid to producers and producer-distributors or the quotas for the production of milk in a milk shed or both. For the purposes of this section, each producer-member of an agricultural cooperative shall be counted as a producer, and an agricultural cooperative shall not be counted as a producer or as a producer-distributor.

(b) Public hearings to establish, revise, or terminate minimum prices and quotas shall not constitute a contested case as defined by chapter 91.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

## ACT 97

S.B. NO. 254

A Bill for an Act Relating to State Security Officers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 28-11.5, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 28-11.5 State security officers; appointment and powers.** Employees of the department of the attorney general engaged as State security officers, upon specific authorization and direction of the attorney general, shall have all of the

\*Edited accordingly.

powers of police officers, including the power of arrest; provided that such powers shall remain in force and effect only while the State security officers are in actual performance of their duties as State security officers which duties shall include off-duty employment when such employment is for other State departments or agencies.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

ACT 98

S.B. NO. 330

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to restate, without substantive change, the Horizontal Property Act.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER 514  
HORIZONTAL PROPERTY REGIMES  
PART I. GENERAL PROVISIONS AND DEFINITIONS**

**Sec. 514-1 Title.** This chapter shall be known as the "Horizontal Property Act".

**Sec. 514-2 Chapter not exclusive.** This chapter is in addition and supplemental to all other provisions of the Revised Statutes; provided that this chapter shall not change the substantive law relating to land court property, and provided further that if this chapter conflicts with chapters 501 and 502, chapters 501 and 502 shall prevail.

**Sec. 514-3 Definitions.** Unless it is plainly evident from the context that a different meaning is intended, as used herein:

- (1) "Apartment" means a part of the property intended for any type of use or uses, and with an exit to a public street or highway or to a common element or elements leading to a public street or highway, and may include such appurtenances as garage and other parking space, storage room, balcony, terrace, and patio.
- (2) "Apartment owner" means the person owning, or the persons owning jointly or in common, an apartment and the common interest appertaining thereto; provided that to such extent and for such purposes,

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\*Edited accordingly.

including the exercise of voting rights, as shall be provided by lease filed with the board of directors, a lessee of an apartment shall be deemed to be the owner thereof.

- (3) "Association of apartment owners" means all of the apartment owners acting as a group in accordance with the bylaws and declaration.
- (4) "Commission" means the real estate commission of the state department of regulatory agencies.
- (5) "Common elements", unless otherwise provided in the declaration, means and includes:
  - (A) The land included in the horizontal property regime, whether leased or in fee simple;
  - (B) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building or buildings;
  - (C) The basements, flat roofs, yards, gardens, recreational facilities, parking areas, and storage spaces;
  - (D) The premises for the lodging or use of janitors and other persons employed for the operation of the property;
  - (E) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerators;
  - (F) The elevators, escalators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations for common use;
  - (G) Such facilities as may be designated as common elements in the declaration; and
  - (H) All other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.
- (6) "Common expense" means and includes:
  - (A) Expenses of operation of the property; and
  - (B) All sums designated common expenses by or pursuant to this chapter, the declaration or the bylaws.
- (7) "Common interest" means the percentage of undivided interest in the common elements appertaining to each apartment, as expressed in the declaration, and any specified percentage of the common interests means such percentage of the undivided interests in the aggregate.
- (8) "Common profits" means the balance of all income, rents, profits, and revenues from the common elements remaining after the deduction of the common expenses.
- (9) "Completion of construction" means the issuance by the appropriate county official of a certificate of completion.
- (10) "Condominium" means the ownership of single units, with common elements, located on property within the horizontal property regime.
- (11) "Declaration" means the instrument by which the property is submitted to this chapter, as hereinafter provided, and such declaration as from time to time amended.
- (12) "Developer" means a person who undertakes to develop a real estate

- condominium project.
- (13) "Limited common elements" means and includes those common elements designated in the declaration as reserved for the use of a certain apartment or certain apartments to the exclusion of the other apartments; provided that no amendment of the declaration affecting any of the limited common elements shall be effective without the consent of the owner or owners of the apartment or apartments for the use of which such limited common elements are reserved.
  - (14) "Majority" or "majority of apartment owners" means the owners of apartments to which are appurtenant more than fifty per cent of the common interest, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.
  - (15) "Master deed" or "master lease" means any deed or lease showing the extent of the interest of the person submitting the property to the horizontal property regime.
  - (16) "Operation of the property" means and includes the administration and operation of the property and the maintenance, repair, and replacement of, and the making of any additions and improvements to, the common elements.
  - (17) "Person" means an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.
  - (18) "Project" means a real estate condominium project; a plan or project whereby a condominium of two or more apartments located within the horizontal property regime are offered or proposed to be offered for sale.
  - (19) "Property" means and includes the land, whether or not contiguous and including more than one parcel of land, but located within the same vicinity, whether leasehold or in fee simple, to the extent of the interest held therein by the owner or lessee submitting such interest to the horizontal property regime, the building or buildings, all improvements and all structures thereon, and all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the regime established by this chapter.
  - (20) "To record" means to record in accordance with chapter 502, or to register in accordance with chapter 501.
  - (21) All pronouns used herein include the male, female, and neuter genders and include the singular or plural numbers, as the case may be.

**Sec. 514-4 Status of apartments.** Each apartment together with the common interest appertaining thereto, shall for all purposes constitute real property and may be individually conveyed, leased, or encumbered and be the subject of ownership, possession, or sale and of all types of juridic acts inter vivos or mortis causa, as if it were sole and entirely independent of the other apartment or apartments in the property of which it forms a part, and the corresponding individual titles and interests shall be recordable.

**Sec. 514-5 Ownership of apartments.** The apartment owner is entitled to the exclusive ownership and possession of the apartment. Any apartment may be jointly or commonly owned by more than one person.

**Sec. 514-6 Separate taxation.** The laws relating to home exemptions from state property taxes are applicable to the individual apartments, which shall have the benefit of home exemption in those cases where the owner of single-family dwelling would qualify. Property taxes assessed by the State shall be assessed on and collected on the individual apartments and not on the property as a whole. Without limitation of the foregoing, each apartment and the common interest appertaining thereto shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including, but not limited to, special assessments.

## **PART II. CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS**

**Sec. 514-11 Recordation and contents of declaration.** The bureau of conveyances and the land court shall immediately set up the mechanics and method by which recordation of a master deed or lease and the declaration may be made. Provisions shall be made for the recordation of instruments affecting the individual apartments on subsequent resales, mortgages, and other encumbrances, as is done with all other real estate recordations; provided that land court certificates of title shall not be issued for apartments. The declaration to which section 514-20 refers shall express the following particulars:

- (1) Description of the land, whether leased or in fee simple, on which the building or buildings and improvements are or are to be located.
- (2) Description of the building or buildings, stating the number of stories and basements, the number of apartments, and the principal materials of which it or they is or are constructed or to be constructed.
- (3) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common element to which it has access, and any other data necessary for its proper identification.
- (4) Description of the common elements.
- (5) Description of the limited common elements, if any, stating to which apartments their use is reserved.
- (6) The percentage of undivided interest in the common elements appertaining to each apartment and its owner for all purposes, including voting.
- (7) Statement of the purposes for which the building or buildings and each of the apartments are intended and restricted as to use.
- (8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of the person which shall be within the county or city and county in which the property is located.
- (9) Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, or restore the

property in the event of damage or destruction of all or part of the property.

- (10) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this chapter.
- (11) The method by which the declaration may be amended, consistent with this chapter.
- (12) Description as to any additions, deletions, modifications, and reservations as to the property.

**Sec. 514-12 Copy of the floor plans to be filed.** Simultaneously with the recording of the declaration, there shall be filed in the office of the recording officer a set of the floor plans and elevations of the building or buildings, showing the layout, location, apartment numbers, and dimensions of the apartments, stating the name of the property or that it has no name, and bearing the verified statement of a registered architect or professional engineer certifying that it is an accurate copy of portions of the plans of the building or buildings as filed with and approved by the county or city and county officer having jurisdiction over the issuance of permits for the construction of buildings. If the plans do not include a verified statement by the architect or engineer that the plans fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments as built, there shall be recorded within thirty days from the date of completion of the building or buildings as "date of completion" is defined in section 507-43, or from the date of occupancy of the building or buildings, whichever shall first occur, an amendment to the declaration to which shall be attached a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments as built. The plans shall be kept by the recording officer in a separate file for each property, indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "apartment ownership," with the name of the property, if any, and each containing an appropriate reference to the recording of the declaration. Correspondingly, the record of the declaration shall contain a reference to the file number of the floor plans of the building or buildings on the property affected thereby.

**Sec. 514-13 Common elements.** (a) Each apartment shall have appurtenant thereto a common interest as expressed in the declaration.

(b) The common interest appurtenant to each apartment as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amended declaration duly recorded. The common interest shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(c) The common elements shall remain undivided and no right shall exist to partition or divide any part thereof, except as otherwise expressed in this chapter.

Any provision to the contrary is void.

(d) Each apartment owner may use the common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment owners, subject always to the exclusive use of the limited common elements as provided in the declaration.

(e) The operation of the property shall be carried out as provided herein and in the declaration and the bylaws.

(f) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.

(g) An undivided interest in the land included in the common elements equal to the apartment's common interest may be leased to the apartment owner and the apartment and other common elements may be deeded to the apartment owner with a right of removal; and, this shall not constitute a division or partition of the common elements, or a separation of the common interest from the apartment to which it appertains; nor shall any such deed be construed as conveying title to the land included in the common elements.

**Sec. 514-14 Parking stalls.** Notwithstanding any provision of the declaration, apartment owners with the consent of the lessor and mortgages, if any, shall have the right to change the designation of parking stalls which are appurtenant to their respective apartments by amendment of the declaration and respective apartment leases or deeds involved. The amendment shall be effective only upon recording or filing of the same of record with the bureau of conveyances.

**Sec. 514-15 Common profits and expenses.** The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners, including the developer, in proportion to the common interest appurtenant to their respective apartments; provided that in a mixed use project containing apartments for both residential and commercial use, such charges and distributions may be apportioned in any fair and equitable manner as set forth in the declaration; provided further that in the case of limited common elements all costs and expenses of every description pertaining thereto including, but not limited to, the cost of the maintenance, repair, and replacement of, and the making of any additions and improvements to, any limited common element may be charged to the owners of the apartments for the use of which such limited common element is reserved in any equitable manner as set forth in the declaration. An apartment owner, including the developer, shall become obligated for the payment of the share of the common expenses allocated to his apartment at the time the certificate of occupancy relating to his apartment is issued by the appropriate county agency.

**Sec. 514-16 Liens against apartments; removal from lien; effect of part payment.** (a) Subsequent to recording the declaration as provided in this chapter, and while the property remains the subject of a horizontal property regime, no lien shall arise or be created against the common elements, During

such period, liens may arise or be created only against the several apartments and their respective common interests.

(b) Labor performed on or materials furnished to an apartment shall not be the basis of a lien pursuant to part II of chapter 507 against the apartment of any apartment owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. No labor performed on or materials furnished to the common elements shall be the basis of a lien thereon, but all funds received and to be received by the manager or board of directors in payment of common expenses, and the right to receive such funds, shall constitute trust funds for the purpose of paying the cost of such labor or materials performed or furnished at the express request or with the consent of the manager or board of directors, and the same shall be expended first for such purposes before expending any part of the same for any other purpose.

**Sec. 514-17 Contents of deeds or leases of apartments.** Deeds or leases of apartments shall include the following particulars:

- (1) Description of the land as provided in section 514-11, or incorporation by reference of the description in the declaration, or the post office address of the property, including in either case an appropriate reference to the recording of the declaration.
- (2) The apartment number of the apartment in the declaration and any other data necessary for its proper identification.
- (3) Statement of the use for which the apartment is intended and restrictions on its use.
- (4) The common interest appertaining to the apartment.
- (5) All encumbrances on the apartment and any further details which the grantor and grantee, or lessor and lessee, deem desirable to set forth consistent with the declaration and this chapter.

**Sec. 514-18 Blanket mortgages and other blanket liens affecting an apartment at time of first conveyance or lease.** At the time of the first conveyance of lease of each apartment, every mortgage and other lien, except any improvement district or utility assessment, affecting both the apartment and any other apartment shall be paid and satisfied of record, or the apartment being conveyed or leased and its common interest shall be released therefrom by partial release duly recorded.

**Sec. 514-19 Merger of increments.** Two or more condominium projects, whether or not adjacent to one another, but which are part of the same incremental plan of development and in the same vicinity, may be merged together so as to permit the joint use of the common elements of the projects by all the owners of the apartments in the merged projects. The merger documents may provide for a single association of apartment owners and board of directors for the merged projects and for a sharing of the common expenses of the projects among all the owners of the apartments in the merged projects.

**Sec. 514-20 Horizontal property regimes.** Whenever the sole owner or all of the owners including all of the lessees of a property expressly declare, through

the execution and recordation of a master deed, together with a declaration, which declaration shall set forth the particulars enumerated by section 514-11, his or their desire to submit the property to the regime established by this chapter, there shall thereby be established a horizontal property regime with respect to the property, and this chapter shall be applicable to the property. If the master deed is already recorded, the recordation of the declaration is sufficient to achieve the same result.

**Sec. 514-21 Removal from provisions of this chapter. (a) If:**

- (1) Apartment owners owning not less than eighty per cent in number of apartments in the aggregate, and owning apartments to which are appurtenant not less than eighty per cent of the common interests, execute and record an instrument to the effect that they desire to remove the property from this chapter, and the holders of all liens affecting any of the apartments of the apartment owners executing such instrument consent thereto by instruments duly recorded, or
- (2) The common elements suffer substantial damage or destruction and such damage or destruction has not been rebuilt, repaired, or restored within a reasonable time after the occurrence thereof or the apartment owners have earlier determined as provided in the declaration that such damage or destruction shall not be rebuilt, repaired, or restored,

then, and in either event, the property shall be subject to an action for partition by any apartment owner or lienor as if owned in common, in which event the sale of the property shall be ordered by the court and the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all apartment owners in proportion to their respective common interests, provided that no payment shall be made to an apartment owner until there has first been paid off out of his share of such net proceeds all liens on his apartment. Upon such sale, the property ceases to be the subject of a horizontal property regime or subject to this chapter.

(b) All of the apartment owners may remove a property, or a part of a property, from this chapter by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the apartments consent thereto, by instruments duly recorded. Upon such removal from this chapter, the property, or the part of the property designated in the instrument, ceases to be the subject of a horizontal property regime or subject to this chapter, and is deemed to be owned in common by the apartment owners in proportion to their respective common interests.

**Sec. 514-22 Removal no bar to subsequent resubmission.** The removal provided for in section 514-21 shall in no way bar the subsequent resubmission of the property to this chapter.

### **PART III. REGISTRATION AND ADMINISTRATION**

**Sec. 514-31 Notification of intention.** Prior to the time when a condominium project is to be offered for sale in this State, the developer shall notify the real estate commission in writing of his intention to sell such offerings.

No offer of sale or sale shall be made without the issuance of a preliminary or final public report.

**Sec. 514-32 Questionnaire and filing fee.** The notice of intention shall be accompanied by a fee of \$250 and by a verified copy of a questionnaire properly filled in. The questionnaire shall be in such form and content as will require full disclosure of all material facts reasonably available.

**Sec. 514-33 Inspection.** After appropriate notification has been made pursuant to section 514-31 and 514-32, an inspection of the condominium project may be made by the real estate commission.

**Sec. 514-34 Inspection expenses.** When an inspection is to be made of projects, the notice of intention shall be accompanied by the filing fee, together with an amount estimated by the real estate commission to be necessary to cover the actual expenses of the inspection, not to exceed \$20 a day for each day consumed in the examination of the project plus reasonable first-class transportation expenses.

**Sec. 514-35 Waiver of inspection.** The real estate commission may waive initial inspection when in its opinion, a preliminary or final public report can be substantially drafted and issued from the contents of the questionnaire and other or subsequent inquiries. Failure of the commission to notify the developer of its intent to inspect his project within ten days after notification of intention is properly filed pursuant to section 514-31 and 514-32 will be construed a waiver of the inspection.

**Sec. 514-36 Public reports and issuance fees.** When the real estate commission makes an examination of any project, it shall make a public report of its findings, which shall contain all material facts reasonably available. A public report shall neither be construed to be an approval nor disapproval of a project. No final public report for a condominium project shall be issued until execution and recordation of the deed or master lease, the declaration with a true copy of the bylaws annexed thereto, and floor plans as approved by the county officer having jurisdiction over the issuance of permits for the construction of buildings, as provided by section 514-20, 514-12, and 514-81.

No additional fee shall be imposed for the issuance by the commission of the first public report. The developer shall be assessed a fee of \$150 for the issuance of a subsequent public report and \$75 for the issuance of a supplemental public report.

**Sec. 514-37 Preliminary public report.** A preliminary public report may be issued by the real estate commission upon receipt of a notice of intention the filing of which is complete except for some particular requirement, or requirements, which is, or are, at the time not fulfilled, but which may reasonably be expected to be completed. No preliminary report shall be issued unless the commission is satisfied that the report adequately discloses all material facts which a prospective purchaser should consider and that adequate protection for purchaser's funds has been provided.

**Sec. 514-38 Request for public report or hearing by developer.** If, within thirty days after notice of intention is properly filed pursuant to sections 514-31

and 514-32, a public report has not been issued by the real estate commission, the developer may, in writing, request of the commission that the report be prepared by a private consultant, and when requested by the commission, the director of regulatory agencies may contract with private consultants for the preparation of public reports prescribed in this chapter. The cost of preparation of public reports by private consultants shall be borne by the developer; provided that upon payment of the cost of the first public report, the developer shall be reimbursed one-half of the filing fee paid under section 514-32, or upon payment of the cost of subsequent or supplementary public reports, the developer shall be reimbursed one-half of the respective fee assessed therefor under this chapter. If the commission does not request the director to let the contract, or if the director determines not to let the contract, or when a final or preliminary public report is not otherwise issued within a reasonable time after notice of intention is properly filed pursuant to sections 514-31 and 514-32, or when a substitute public report is not issued within a reasonable time after requested or required, or if the developer is materially grieved by the form or content of a public report, the developer may, in writing, request and shall be given a hearing by the real estate commission within a reasonable time after receipt of request.

**Sec. 514-39 Filing with commission required.** Preliminary public reports shall not be used for selling under a contract for the sale of a condominium unit, unless the developer of the project has filed with the real estate commission those documents and exhibits required to be submitted with the notification of intention required by section 514-31 and 514-32, a specimen copy of an escrow agreement with a third party depository for retention and disposition of purchasers funds in accordance with section 514-65.

**Sec. 514-40 Issuance of final reports prior to completion of construction.** No final public report shall be issued prior to completion of construction of the project, unless there is filed with the real estate commission:

- (1) A verified statement showing all costs involved in completing the project, including land payments or lease payments, real property taxes, construction costs, architect, engineering, and attorneys fees, financing costs, provisions for contingency, etc., which must be paid on or before the completion of construction of the building;
- (2) A verified estimate of the time of completion of construction of the total project;
- (3) Satisfactory evidence of sufficient funds to cover the total project cost from purchasers funds, equity funds, interim or permanent loan commitments, or other sources;
- (4) A copy of the executed construction contract;
- (5) Satisfactory evidence of a performance bond of not less than one hundred per cent of the cost of construction;
- (6) If purchasers' funds are to be used for construction, an executed copy of the escrow agreement for the trust fund required under section 514-67 for financing construction, which shall expressly provide for:
  - (A) No disbursements by the escrow agent for payment of construction costs unless bills are submitted with the request for such disburse-

ments which have been approved or certified for payment by the mortgagee or a financially disinterested person; and

- (B) No disbursements from the balance of the trust fund after payment of construction costs pursuant to the preceding paragraph until the escrow agent receives satisfactory evidence that all mechanics' and materialmen's liens have been cleared, unless sufficient funds are set aside for any bona fide dispute.

**Sec. 514-41 Supplementary public reports.** If after a final public report has been issued, any circumstance occurs which would render the final public report misleading as to purchasing, or if the developer proposes to materially change the project, the developer shall stop all sales and immediately submit sufficient information to the real estate commission to enable it to issue a supplementary public report describing the changes. Sales shall not resume until the supplementary report has been issued.

**Sec. 514-42 True copies of public report.** The true copies of the real estate commission's report shall be an exact reproduction of those prepared by the commission.

**Sec. 514-43 Automatic expiration of public reports.** A public report shall expire thirteen months after the date of issuance, unless a supplementary report has been issued or the real estate commission, upon review of the registration issues an order extending the effective period of the report.

**Sec. 514-44 Deposit of fees.** All fees collected under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

**Sec. 514-45 Supplemental regulations governing a horizontal property regime.** Whenever they deem it proper, the real estate commission, the county councils of the various counties or the city council of the city and county of Honolulu may adopt supplemental rules and regulations governing a horizontal property regime established under this chapter in order to implement this program; provided that any of the supplemental rules and regulations adopted shall not conflict with this chapter or with any of the rules and regulations adopted by the real estate commission to implement this chapter.

**Sec. 514-46 Investigatory powers.** If the real estate commission has reason to believe that a developer is violating any provision set forth in sections 514-2, 514-31 to 514-39, 514-41, 514-42, 514-44 to 514-49, 514-62 to 514-66, 514-68, 514-69, and 514-85, or the rules and regulations of the commission made pursuant thereto, the commission may investigate the developer's project and examine the books, accounts, records, and files used in the project of the developer. For the purposes of examination, the developer is required to keep and maintain records of all sales transactions and of the funds received by him pursuant thereto, and to make them accessible to the commission upon reasonable notice and demand.

**Sec. 514-47 Cease and desist orders.** In addition to its authority under section 514-48, whenever the real estate commission has reason to believe that any person is violating or has violated this chapter, it shall issue and serve upon such person a complaint stating its charges in that respect, containing a notice of

a hearing upon a day and at a place therein fixed at least thirty days after the service of the complaint. The person so complained of has the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring the person to cease and desist from the violation of the law charged in the complaint. If upon the hearing the commission is of the opinion that this chapter has been or is being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on the person an order requiring the person to cease and desist from such violations. The person complained of may, within thirty days after service upon him of the report or order, obtain a review thereof in the appropriate circuit court.

**Sec. 514-48 Power to enjoin.** Whenever the real estate commission believes from satisfactory evidence that a person has violated any of sections 514-2, 514-31 to 514-39, 514-41, 514-42, 514-44 to 514-49, 514-62 to 514-66, 514-68, 514-69, and 514-85 or the rules and regulations of the commission adopted pursuant thereto, it may conduct an investigation on such matter, and bring an action in the name of the people of the State of Hawaii in any court of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.

**Sec. 514-49 Penalties.** (a) Any person who, in any respect, violates or fails to comply with any of the provisions set forth in sections 514-2, 514-31 to 514-39, 514-41, 514-42, 514-44 to 514-49, 514-62 to 514-66, 514-68, 514-69, and 514-85 or who in any other respect violates or fails, omits, or neglects to obey, observe, or comply with any rule, order, decision, demand, or requirement of the real estate commission under sections 514-2, 514-31 to 514-39, 514-41, 514-42, 514-44 to 514-49, 514-62 to 514-66, 514-68, 514-69, and 514-85 is guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding one year, or both.

(b) Any person who violates any provision of this chapter or the rules of the real estate commission adopted pursuant thereto shall also be subject to a civil penalty not exceeding \$2,500, for any violation. Each violation shall constitute a separate offense and the collection of the fine shall be by suit brought by the attorney general on behalf of the real estate commission.

**Sec. 514-50 Limitation of action.** No civil or criminal actions shall be brought by the State pursuant to this chapter more than one year after the discovery of the facts upon which such actions are based or ten years after completion of the sales transaction involved, whichever has first occurred.

#### PART IV. PROTECTION OF PURCHASERS

**Sec. 514-61 Disclosure requirements.** (a) Each developer of a project subject to this chapter shall prepare and provide to each prospective initial purchaser an abstract which shall contain the following:

- (1) The name and address of the project, and the name, address, and telephone number of the developer or his agent and of the project manager of his agent;
- (2) A breakdown of the annual maintenance fees and the monthly esti-

mated cost for each apartment, revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles;

- (3) A description of all warranties for the individual apartments and the common elements, including the date of initiation and expiration of any such warranties;
  - (4) A statement of the proposed number of apartments to be used for residential or hotel use in a mixed use project containing apartments for both residential and hotel use; and
  - (5) A statement of the extent of commercial or other non-residential development in the project.
- (b) This section shall be administered by the real estate commission.

**Sec. 514-62 Copy of public report to be given to prospective purchaser.** The developer or any other person offering any unit in a condominium project prior to completion of its construction shall not enter into a binding contract or agreement for the sale or resale thereof until:

- (1) A true copy of the real estate commission's final public report thereon with all supplementary public reports, if any has been issued, has been given to the prospective purchaser;
- (2) The prospective purchaser has been given an opportunity to read the reports; and
- (3) The prospective purchaser executes his receipt for the reports.

Receipts taken for any public report shall be kept on file in possession of the developer subject to inspection at a reasonable time by the commission or its deputies, for a period of three years from the date the receipt was taken.

**Sec. 514-63 Enforceability of sales.** Rights under contracts of sale of condominium units under a preliminary public report are not enforceable against purchasers until purchasers have had a full opportunity to read the real estate commission's final public report on the project, and to obtain a refund of any moneys paid as well as a release from all obligations if the final report differs in any material respect from the preliminary report.

**Sec. 514-64 Changes in building plans.** Purchasers' funds obtained prior to issuance of final reports shall be refunded if there is any change in the condominium building plans subsequent to execution of the contract requiring approval of a county officer having jurisdiction over issuance of permits for the construction of buildings, unless a purchaser's written approval or acceptance of the specific change is obtained or ninety days have elapsed since the purchaser has accepted in writing the apartment or he has first occupied the apartment.

**Sec. 514-65 Escrow requirement.** All moneys paid by purchasers prior to issuance of final reports shall be deposited in trust under escrow arrangement with instructions that no disbursements shall be made from such trust funds on behalf of the seller until the contract has become effective, and the requirements of sections 514-39, 514-63, 514-64, and 514-66 have been met.

**Sec. 514-66 One-year limit.** If the final public report is not issued within one year from the date of issuance of the preliminary report, purchasers are entitled

to refund of all moneys paid by the purchasers thereunder without further obligation.

**Sec. 514-67 Financing construction.** Should the apartments be conveyed or leased prior to the completion of construction of the building or buildings for the purpose of financing such construction, all moneys from the sale of such apartments, including any payments made on loan commitments from lending institutions, shall be deposited by the developer in a trust fund with a bank, savings and loan association, or trust company authorized to do business in the State under an escrow arrangement. Disbursements from such fund may be made, from time to time, to pay for construction costs of the building or buildings in proportion to the valuation of the work completed by the contractor as certified by a registered architect or professional engineer, and for architectural, engineering, finance, and legal fees and for other incidental expenses of the condominium project as approved by the mortgagee. The balance of the money remaining in the trust fund shall be disbursed only upon completion of the building or buildings, free and clear of all mechanic's and materialmen's liens. The real estate commission may impose other restrictions relative to the retention and disbursement of the trust fund.

**Sec. 514-68 Misleading statements and omissions.** No officer, agent, or employee of any company, and no other person may knowingly authorize, direct, or aid in the publication, advertisement, distribution, or circulation of any false statement or representation concerning any project offered for sale or lease, and no person may issue, circulate, publish, or distribute any advertisement, pamphlet, prospectus, or letter concerning any project which contains any written statement that is false or which contains an untrue statement of a material fact or omits to state material fact necessary in order to make the statements therein made in the light of the circumstances under which they are made not misleading.

**Sec. 514-69 Remedies; sales voidable when and by whom.** Every sale made in violation of section 514-68 is voidable at the election of the purchaser; and the person making such sale and every director, officer, or agent of or for such seller, if the director, officer, or agent has personally participated or aided in any way in making the sale, is jointly and severally liable to the purchaser in an action in any court of competent jurisdiction upon tender of the units sold or of the contract made, for the full amount paid by the purchaser, with interest, together with all taxable court costs and reasonable attorney's fees; provided that no action shall be brought for the recovery of the purchase price after two years from the date of the sale and provided further that no purchaser otherwise entitled shall claim or have the benefit of this section who has refused or failed to accept within thirty days an offer in writing of the seller to take back the unit in question and to refund the full amount paid by the purchaser, together with interest at six per cent on such amount for the period from the date of payment by the purchaser down to the date of repayment.

**Sec. 514-70 Warranty against structural and appliance defects; notice of expiration required.** The developer of a horizontal property regime subject to this chapter shall give notice by certified mail at the appropriate time to all

members of the association of apartment owners and all members of the board of directors that the normal one-year warranty period will expire in ninety days. The notice shall set forth specific methods which apartment owners may pursue in seeking remedies for defects, if any, prior to expiration.

## **PART V. CONDOMINIUM MANAGEMENT**

**Sec. 514-81 Bylaws.** The operation of the property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and made a part thereof. No modification of or amendment to the bylaws is valid unless set forth in an amendment to the declaration, which amendment is duly recorded.

**Sec. 514-82 Contents of bylaws.** The bylaws shall provide for at least the following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting from the apartment owners their share of the common expenses.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) Seventy-five per cent of the apartment owners may at any time modify

or amend by bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.

- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after a certificate of occupancy for the project has been issued by the appropriate county agency.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose.
- (14) A director shall not vote at any board meeting on any issue in which he has a conflict of interest.
- (15) No resident manager of the condominium shall serve on the board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to such meeting, and shall contain at least: the date and time of such meeting, the place of such meeting, the items on the agenda for such meeting, and a standard proxy form authorized by the association, if any.
- (18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only.
- (19) The resident manager or managing agent, or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the name and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.
- (20) All association and board of directors meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
- (21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- (22) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.

**Sec. 514-83 Purchaser's right to vote.** The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall have all the rights of an apartment owner, including the right to vote; provided that the seller may retain the right to vote on matters substantially affecting his security interest in the apartment, including but not limited to, the right to vote on:

- (1) Any partition of all or part of the project;
- (2) The nature and amount of any insurance coverage the project and the disposition of any proceeds thereof;

- (3) The manner in which any condemnation of the project shall be defended or settled and the disposition of any award or settlement in connection therewith;
- (4) The payment of any amount in excess of insurance or condemnation proceeds;
- (5) The construction of any additions or improvements, and any substantial repair or rebuilding of any portion of the project;
- (6) The special assessment of any expenses;
- (7) The acquisition of any apartment in the project;
- (8) Any amendment to the declaration of horizontal property regime or bylaws;
- (9) Any removal of the project from the provisions of this chapter; and
- (10) Any other matter which would substantially affect the security interest of the seller.

**Sec. 514-84 Management contracts; developer and its affiliates.** If the developer or any affiliate of the developer acts as the first managing agent for the association of apartment owners following its organization, the contract shall not have a term exceeding one year and shall contain a provision that the contract may be terminated by either party thereto on not more than sixty days' written notice. An affiliate of, or person affiliated with, a developer is a person that directly or indirectly controls, is controlled by, or is under common control with, the developer.

**Sec. 514-85 Books of receipts and expenditures; availability for examination.** The manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. All records and the vouchers authorizing the payments shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors, and shall be available for examination by the apartment owners at convenient hours of week days.

**Sec. 514-86 Insurance.** (a) The board of directors shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, exterior glass, floors, and ceilings against loss or damage by fire and such other hazards (including flood insurance under the provisions of the federal Flood Disaster Protection Act of 1973, if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development) sufficient to provide for the repair or replacement thereof in the event of such loss or damages. The insurance coverage shall be written on the property in the name of the board of directors of the association of apartment owners, as trustee for each of the apartment owners in proportion to their respective common interests. Premiums shall be common expenses. Provision for the insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

(b) Any insurance policy providing the coverage required by subsection (a) shall contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the board of directors

with a written summary, in layman's terms, of the policy. The summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The board of directors shall provide this information to each apartment owner.

**Sec. 514-87 Personal application.** (a) All apartment owners, tenants of such owners, employees of owners and tenants, or any other persons that may in any manner use property or any part thereof submitted to this chapter are subject to this chapter and to the declaration and bylaws of the association of apartment owners adopted pursuant to this chapter.

(b) All agreements, decisions, and determinations lawfully made by the association of apartment owners in accordance with the voting percentages established in this chapter, the declaration, or the bylaws are binding on all apartment owners.

**Sec. 514-88 Compliance with covenants, bylaws, and administrative provisions.** Each apartment owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief or both maintainable by the manager or board of directors on behalf of the association of apartment owners or, in a proper case, by an aggrieved apartment owner.

**Sec. 514-89 Certain work prohibited.** No apartment owner shall do any work which would jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the unanimous consent of all the other apartment owners being first obtained; provided that additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws.

**Sec. 514-90 Priority of lien.** (a) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment constitute a lien on the apartment prior to all other liens, except only (1) liens for taxes and assessments lawfully imposed by governmental authority against the apartment, and (2) all sums unpaid on mortgages of record, and costs and expenses including attorney's fees provided in such mortgages. The lien may be foreclosed by action by the manager or board of directors, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the apartment owners, may, unless prohibited by the declaration, bid on the apartment at foreclosure sale, and acquire and hold, lease, mortgage, and convey the same. Action to recover a money judgment for unpaid common

expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(b) Where the mortgagee of a mortgage of record or other purchaser of an apartment obtain title to the apartment as a result of foreclosure of the mortgage, the acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to the apartment which became due prior to the acquisition of title to the apartment by the acquirer. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including the acquirer, his successors, and assigns.

**Sec. 514-91 Joint and several liability of grantor and grantee for unpaid common expenses.** In a voluntary conveyance the grantee of an apartment is jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantor or grantee is entitled to a statement from the manager or board of directors setting forth the amount of the unpaid assessments against the grantor, and neither the grantor nor the grantee is liable for, nor is the apartment conveyed subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.

**Sec. 514-92 Waiver of use of common elements; abandonment of apartment; conveyance to board of directors.** No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment. Subject to such terms and conditions as may be specified in the bylaws, any apartment owner may, by conveying his apartment and his common interest to the board of directors on behalf of all other apartment owners, exempt himself from common expenses thereafter accruing.

**Sec. 514-93 Actions.** Without limiting the rights of any apartment owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors, on behalf of two or more of the apartment owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one apartment. Service of process on two or more apartment owners in any action relating to the common elements or more than one apartment may be made on the person designated in the declaration to receive services of process.

**Sec. 514-94 Attorney's fees and expenses of enforcement.** All costs and expenses, including reasonable attorney's fees, incurred by or on behalf of the association for:

- (1) Collecting any delinquent assessments against any owner's apartment;
- (2) Foreclosing any lien thereon;
- (3) Enforcing any provision of the declaration, bylaws, house rules, and the Horizontal Property Act; or
- (4) The rules and regulations of the real estate commission;

against an owner or any occupant of an apartment shall be promptly paid on demand to the association by the apartment owner; provided that if the claims upon which the association takes any action are not substantiated, all costs and

expenses, including reasonable attorney's fees, incurred by the apartment owner as a result of the action of the association, shall be promptly paid on demand to the apartment owner by the association."

SECTION 3. Chapter 514, Hawaii Revised Statutes, is repealed.

SECTION 4. If any other Act passes during this Regular Session of 1977 amending chapter 514, the Act shall be appropriately placed in the recodification of chapter 514 enacted by this Act.

SECTION 5. This Act shall take effect on January 1, 1978.

(Approved May 14, 1977.)

ACT 99

S.B. NO. 530

A Bill for an Act Relating to Fees for Tax Map Tracings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 92-22 Fees for the use of tax map tracings.** The director of taxation may contract with any person or firm for the use and other disposition of tax map tracings, including copies or prints made therefrom, which have been prepared pursuant to section 246-9, under such terms and conditions as he may deem necessary and proper. He may charge a fee for such use and other disposition. He may regulate the prices charged to the general public by the persons or firms using these tracings for copies or prints made therefrom.

For the purposes of this section, the director may, in his discretion, award the contract or contracts for such use and other disposition of these tax map tracings by calling for public bid.

All moneys received under this section shall be deposited to the general fund of the State."

SECTION 2. Section 246-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 246-9 Maps.** The department of taxation shall provide, for each taxation district, maps drawn to appropriate scale, showing all parcels, blocks, lots, or other divisions of land based upon ownership, and their areas or dimensions, numbered or otherwise designated in a systematic manner for convenience of identification, valuation, and assessment. The maps, as far as possible, shall show the names of owners of each division of land, and shall be revised from time to time as ownerships change and as further divisions of parcels occur. The department shall also maintain, as and when such information is available, maps showing present use, zoning, and physical use capabilities of land within each taxation district for the guidance of assessors and the information of various tax review tribunals and the general public.

The director of taxation may charge fees for the use and other disposition of tracings of these maps, including copies or prints made therefrom, by private persons or firms as provided in section 92-22."

## **ACT 100**

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 4.** This Act shall take effect upon its approval.

(Approved May 14, 1977.)

## **ACT 100**

**S.B. NO. 745**

**A Bill for an Act Repealing Chapter 156, Hawaii Revised Statutes, Relating to the Farm Advisory Board.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 156, Hawaii Revised Statutes, is repealed.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 14, 1977.)

## **ACT 101**

**S.B. NO. 758**

**A Bill for an Act Relating to the Driver Improvement Program.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 286-108.5, Hawaii Revised Statutes, is amended by amending subsections (g) and (h) to read:

“(g) Every employer who employs any person as a regularly employed driver of motor vehicles listed in section 286-102(c), shall provide for every such driver employed by him a driver improvement program which shall include a system for continuous driver evaluation, annual driver safety courses approved by the state highway safety coordinator, and such other activities as may be required by rules and regulations adopted by the state highway coordinator pursuant to chapter 91. Every organization, such as a union, through which a driver of a motor vehicle listed in section 286-102(c) is employed on a casual or sporadic basis, and not as a regularly employed driver for any one employer, shall be responsible for providing the driver improvement program for all drivers who are hired for casual or sporadic employment through the organization. An individual is casually or sporadically employed if he is temporarily engaged only for a particular job or project and not as a regular employee of the employer. Any employer or organization that violates this subsection shall be fined not more than \$500. Every regularly or casually employed driver or motor vehicles listed in section 286-102(c) shall attend the driver improvement program provided for him by his employer or organization. The highway safety coordinator shall adopt rules pursuant to chapter 91 necessary for the purposes of this subsection, including but not limited to rules governing attendance. Any driver who does not fulfill the appropriate driver improvement attendance requirement shall be fined not more than \$100.

(h) The counties may furnish real property, facilities on such property and

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\*Edited accordingly.

other equipment in furtherance of this section. A county shall allow the use of such property or other county property to a certificated fleet safety examiner on terms that it deems proper and reasonable."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

ACT 102

S.B. NO. 995

A Bill for an Act Relating to the Utilization of Electricity Generated from Non-Fossil Fuels.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that electricity generated from the combustion of bagasse presently constitutes a substantial source of power in the State of Hawaii; that the combustion of non-fossil materials including bagasse, wood materials and combustible solid waste materials constitute a significant potential source of additional power available for public use; and that encouraging utilization of non-fossil fuel sources of energy offers advantages to the State that would:

(a) Promote an important reduction of State dependence upon imported petroleum products and other rapidly depleting fossil fuel sources, which consequently would reduce the State's vulnerability to economic dislocation and public inconvenience resulting from sudden or long-term unavailability of fossil fuels by reason of adverse action by foreign oil suppliers, shipping industry strikes, or exhaustion of fossil fuel supplies;

(b) Improve the State balance of payments posture by reducing purchases of fuel from extra-State sources and circulated into the State economy the funds expended for power generated from State fuel sources that otherwise would have entered other economies;

(c) Create jobs in the State by encouraging development of non-fossil fuel power production industry;

(d) Encourage utilization of alternative renewable fuel sources such as bagasse, wood materials and combustible solid waste materials, which currently are not being employed to their full potential;

(e) Promote expanded use of technology which presently exists and is being utilized currently by the State sugar industry in the generation of power from combustion of bagasse and which therefore does not require the research for development of technology or public financial assistance necessary for other non-fossil fuel energy alternatives such as solar, wind, geothermal and nuclear power, and which does not pose the degree of health, safety or environmental risks concomitant with nuclear power and transportation of fuel oil;

(f) Contribute to the viability of the State sugar industry by encouraging the sale and utilization of excess power generated from combustion of bagasse;

\*Edited accordingly.

and

(g) Would not require installation of costly equipment or appliances by individual users as would be required for the utilization of solar energy.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 269-1 Definitions.** As used in this chapter:

"Public utility" means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term (1) means and includes any person, insofar as such person owns or operates an aerial transportation enterprise as a common carrier; (2) means and includes any person, insofar as such person owns or operates a private sewer company or sewer facility; (3) shall not include persons owning or operating taxicabs, as defined herein; (4) shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points which the public utilities commission finds to be inadequately serviced without regulation under this chapter; (5) shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest; (6) shall not include the business of any carrier by water to the extent that such carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally, and also shall not include the business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure; and (7) shall not include any person who controls, operates or manages plants or facilities for production, transmission or furnishing of power primarily or entirely from non-fossil fuel sources for its internal uses but who also provides, sells or transmits the portion of such power not used for such purposes directly to a public utility for transmission to the public.

In the event the application of this chapter is ordered by the commission in any case provided in (3) and (4) the business of any public utility which presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in section 269-20.

"Taxicab" means and includes:

- (1) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger

hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and

- (2) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between the terminals; and provided further, that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed (under section 445-222 and any other applicable provision of law or ordinance) and doing business between such terminals on January 1, 1957.

"Public highways" has the meaning defined by section 264-1, including both state and county highways, but operation upon rails shall not be deemed transportation on public highways."

SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read:

**"Sec. 269- Utilization of electricity generated from non-fossil fuels.**

(a) The public utilities commission shall investigate and determine the extent to which electricity generated from non-fossil fuel sources is available to public utilities which supply electricity to the public, which electricity is in excess of that utilized or otherwise needed by the producers for their internal uses and which such producers are willing to make available to such public utilities.

(b) The public utilities commission may direct public utilities which supply electricity to the public to arrange for the acquisition of and to acquire such electricity generated from non-fossil fuel sources as is available from and which the producers of same are willing and able to make available to such public utilities, and to employ and dispatch such non-fossil fuel generated electricity in a manner consistent with the availability thereof to maximize the reduction in consumption of fossil fuels in the generation of electricity to be provided to the public.

(c) The rate payable by the public utility to the producer for such non-fossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided, however, that in the event the public utility and the supplier fail to reach an agreement for such rate, such rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

- (1) In the exercise of its authority to determine the just and reasonable rate for the non-fossil fuel generated electricity supplied to the public utility by the producer, the commission shall give due consideration, among other factors, to the costs that the public utility would incur in the supply of electricity, to the need in the public interest of adequate

and economical electric service by the public utility, and to the need of revenues sufficient to enable the producer of non-fossil fuel generated electricity to provide the electricity to the public utility.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

ACT 103

H.B. NO. 151

A Bill for an Act Relating to Policy Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the importance of developing an effective state plan to implement long-range policies to guide Hawaii's development is as critical in 1977 as it was in 1975, when Act 189 requiring formulation of a state plan was enacted.

The legislature further finds that effective planning must encompass the needs of all citizens, and that a process, to achieve this, must actively involve discussion of alternatives from a wide range of perspectives. The policy council established to advise the director of planning and economic development on formulation, implementation, and review of the state plan can perform a vital role in broadening the base of the planning process.

The legislature notes, however, that membership of the policy council presently consists of state and county agency administrators. With the knowledge that the state plan must address concerns broader than bureaucratic, public agency, and administrative concerns, that the range of concerns should be represented in the policy council's membership, and that planning should involve participants with diverse backgrounds, the purpose of this Act is to expand the policy council to include concerns and perspectives more representative of the people of Hawaii, to the end of creating a plan truly worthy of the people of Hawaii's needs and aspirations.

SECTION 2. Section 225-3, Hawaii Revised Statutes, is amended to read:

“**Sec. 225-3 Policy council.** There is established a policy council. The governor shall appoint one of its members as its chairman. Members of the council shall include:

- (1) The planning director from each county;
- (2) The directors or chairmen from the departments of agriculture, budget and finance, planning and economic development, land and natural resources, health, social services and housing, transportation, office of environmental quality control, land use commission, the superintendent of education, and the executive director of Hawaii housing

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\*Edited accordingly.

authority; and

- (3) Four public members appointed by the governor pursuant to section 26-34.

Expenses incurring by a member participating in council deliberations shall be borne by his respective public agency. Expenses incurred by public members shall be reimbursed by the department of planning and economic development."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect on its approval.

(Approved May 14, 1977.)

## ACT 104

H.B. NO. 182

A Bill for an Act Relating to the Hawaii Pesticides Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part IV, chapter 149A, Hawaii Revised Statutes, is amended to read as follows:

### **"PART IV. VIOLATIONS, WARNING NOTICE, AND PENALTIES**

**Sec. 149A-41 Violations, warning notice, and penalties.** (a) Warning notice. Any person who violates this chapter or any rule or regulation issued hereunder may upon the first violation be issued a written warning notice citing the specific violation and necessary corrective action.

(b) Civil penalties.

- (1) In general any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this chapter may be assessed a civil penalty by the board of not more than \$5,000 for each offense.
- (2) Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter subsequent to receiving a written warning from the department or following a citation for a prior violation may be assessed a civil penalty by the board of not more than \$1,000 for each offense.
- (3) No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county of the residence of the person charged. In determining the amount of penalty the board shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue business, and the gravity of the violation.

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\*Edited accordingly.

- (4) In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the board may determine, the board shall refer the matter to the attorney general, who shall recover such amount by action in the appropriate court.
- (c) Criminal penalties.
  - (1) In general any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall on conviction be fined not more than \$25,000, or imprisoned for not more than one year, or both.
  - (2) Any private applicator or other person not included in paragraph (1) who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000, or imprisoned for not more than thirty days, or both.
  - (3) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, shall be fined not more than \$10,000, or imprisoned for not more than three years, or both.
  - (4) When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

## ACT 105

H.B. NO. 185

A Bill for an Act Relating to Short-Term Investment of State Moneys.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 36-21, Hawaii Revised Statutes, is amended to read:

**"Sec. 36-21 Short-term investment of state moneys.** The director of finance may invest any moneys of the State which in the director's judgment are in excess of the amounts necessary for meeting the immediate requirements of the State and where in his judgment the action will not impede or hamper the necessary financial operations of the State, in any bonds or interest-bearing notes or obligations of the State (including state director of finance's warrant notes issued pursuant to chapter 40), or of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest,

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\*Edited accordingly.

or in federal land bank bonds or joint stock farm loan bonds, or in bank savings accounts, or in time certificates of deposit, or in certificates of deposit open account, or in bank repurchase agreements; provided, the investments are due to mature not more than five years from the date of investment. Income derived therefrom shall be a realization of the general fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

## ACT 106

H.B. NO. 253

A Bill for an Act Relating to Regulation of Probation and Suspended Sentences Under the Hawaii Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-627, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 706-627 Notice and hearing on revocation of suspension of sentence or probation, or increasing the conditions thereof; tolling of suspension of sentence or probation.** (1) The court shall not revoke a probation or suspension of sentence or increase the requirements imposed thereby on the defendant except after a hearing upon written notice to the defendant of the grounds on which such action is proposed. The defendant shall have the right to hear and controvert the evidence against him, to offer evidence in his defense, and to be represented by counsel.

(2) Upon the filing of a motion to revoke a probation or suspension of sentence or a motion to increase the requirements imposed thereby, the period of probation or suspension of sentence shall be tolled pending the hearing upon the motion and the decision of the court. The period of tolling shall be computed from the filing date of the motion through and including the filing date of the written decision of the court concerning the motion for purposes of computation of the remaining period of probation or suspension, if any. In the event the court fails to file a written decision upon the motion, the period shall be computed by reference to the date the court makes a decision upon the motion in open court. During the period of tolling of the probation or suspension, the defendant shall remain subject to all terms and conditions of the probation or suspension except as otherwise provided by this chapter.

(3) In the event the court, following hearing, refuses to revoke the probation or suspension or grant the requested increases in requirements thereof, the defendant shall be granted the period of tolling of the probation or suspension for purposes on computation of the remaining probation or

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\*Edited accordingly.

## ACT 107

suspension, if any.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

## ACT 107

H.B. NO. 676

A Bill for an Act Relating to Medicine and Surgery.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 453- Powers and duties of board.** In addition to other powers and duties established by this chapter, the board of medical examiners shall have all the powers necessary or convenient to effectuate the purpose of this chapter, including, without limitation, the following powers:

- (1) To adopt rules, pursuant to chapter 91; and
- (2) To enforce this chapter and rules adopted pursuant thereto.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

## ACT 108

H.B. NO. 1105

A Bill for an Act Relating to Substance Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-193, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 321-193 Duties and responsibilities of department.** The department shall:

- (1) Coordinate all substance abuse programs including rehabilitation, treatment, education, research, and prevention activities.
- (2) Prepare, administer, and supervise the implementation of a state plan for substance abuse which may consist of a plan for alcohol abuse prevention and a plan for drug abuse prevention.
- (3) Identify all funds, programs, and resources available in the State, public and private, and from the federal government which are being used or may be used to support substance abuse prevention, rehabili-

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\*Edited accordingly.

tation, treatment, education, and research activities.

- (4) Be the designated agency required by, and receive and administer all available substance abuse funds including but not limited to funds received from, the federal government under Public Law 92-255, Public Law 91-616, Public Law 91-211, and Title IVA and XVI of the Social Security Act or other subsequent acts of Congress which may amend or succeed such acts.
- (5) Encourage and coordinate the involvement of private and public agencies in the assessment of substance abuse problems, needs, and resources.
- (6) Coordinate the delivery of available funding to public and private agencies for program implementation.
- (7) Establish mechanisms and procedures for receiving and evaluating program proposals, providing technical assistance, monitoring programs and securing necessary information from public and private agencies for the purposes of planning, management, and evaluation.
- (8) Review the state plan for substance abuse annually for the purpose of evaluation and make necessary amendments to conform with the requirements of federal or state laws.
- (9) Do all things necessary to effectuate the purposes of this part.
- (10) Certify program administrators, counselors and accredit programs related to substance abuse programs in accordance with rules to be promulgated by the department."

SECTION 2. Section 321, Hawaii Revised Statutes, is further amended by adding a new subsection to be appropriately designated and to read as follows:

**"Sec. 321- State funding of substance abuse agencies.** Certification of a private substance abuse agency pursuant to Section 321-193(10), Hawaii Revised Statutes, shall be a necessary prerequisite to that substance abuse agency receiving any state funding. This Section shall take effect on December 31, 1978."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

ACT 109

H.B. NO. 1305

A Bill for an Act Relating to Evidence of Sexual Conduct.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-742, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In any prosecution under sections 707-730, 707-731, and 707-732, or

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\*Edited accordingly.

for attempt to commit, or conspiracy to commit any crime defined in any such section, if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness, the following procedure shall be followed:

- (1) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness.
- (2) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated.
- (3) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and all other persons, except for court personnel, the parties, their attorneys, and such other persons whose presence is determined by the court to be necessary for the hearing, and at such hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.
- (4) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant and is not inadmissible for any reason, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

## ACT 110

H.B. NO. 1687

A Bill for an Act Relating to Airport and Harbor Revenue Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this bill is to permit the substitution of airport and harbor revenue bonds in lieu of reimbursable general obligation bonds authorized in past appropriation acts for airport and harbor capital investment projects respectively, in the event there is a curtailment of general obligation bond issuance by the State and essential and needed airport or harbor capital projects so authorized must still be constructed.

SECTION 2. Section 9 of Act 68, Session Laws of 1971 is amended to read:

"SECTION 9. **Harbor Revenue Bonds.** The department of transportation

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\*Edited accordingly.

is authorized to issue pursuant to the provisions of Part III, chapter 39, Hawaii Revised Statutes, harbor revenue bonds or other harbor revenue obligations for harbor projects authorized by this Act, to be financed by harbor revenue bond funds or by reimbursable general obligation bond funds, in such principal amount as shall be required to yield the amounts appropriated by this Act for such projects, plus, if so determined by the department and approved by the governor, such additional amounts as may be deemed necessary by the department to establish, maintain, or increase reserves for such bonds or other revenue obligations and pay the expenses of issuance of such bonds or other revenue obligations. To the extent not paid from the proceeds of such revenue bonds or other revenue obligations, the expenses of the issuance of such harbor revenue bonds or other revenue obligations and the principal and interest on such bonds or other revenue obligations shall be paid or provided for from the harbor special fund. The governor, in his discretion, is authorized to use harbor special funds to finance these projects in Part II where the method of financing is designated to be by harbor revenue bond funds or reimbursable general obligation bond funds."

SECTION 3. Section 81 of Act 218, Session Laws of Hawaii 1973, as amended by Section 11 of Act 218, Session Laws of Hawaii 1974, is amended to read:

**"SECTION 81. Airport Revenue Bonds.** The department of transportation is authorized to issue airport revenue bonds for airport capital investment projects listed in this Supplemental Appropriations Act and designated to be financed by revenue bond funds, or reimbursable general obligation bond funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the airport revenue bonds to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to Sections 243-4(a)(2) and 248-8, Hawaii Revised Statutes, as amended, or such parts of either thereof as the department may determine, including rents, landing fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund. The Governor, in his discretion, is authorized to use the airport revenue fund to finance those projects in this Supplemental Appropriation Act where the method of financing is designated to

be by airport revenue bond funds or reimbursable general obligation bond funds."

SECTION 4. Act 218, Session Laws of Hawaii 1974 is amended by adding a new section 81A to read:

**"Section 81A Harbor revenue bonds.** The department of transportation is authorized to issue harbor revenue bonds for harbor capital investment projects listed in this Supplemental Appropriations Act and designated to be financed by revenue bond funds or reimbursable general obligation bond funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the governor, such additional amounts as may be deemed necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the harbor revenue bonds to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of part III, chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, and pilotage fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of harbors and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the harbor special fund. The Governor, in his discretion, is authorized to use the harbor special fund to finance those projects in this Supplemental Appropriation Act where the method of financing is designated to be by harbor revenue bond funds or reimbursable general obligation funds."

SECTION 5. Section 93 of Act 195, Session Laws of Hawaii 1975, is amended to read:

**"SECTION 93. Airport Revenue Bonds.** The Department of Transportation is authorized to issue airport revenue bonds for airport capital investment projects authorized in Part II and listed in Part IV of this act and designated to be financed by revenue bond funds, or by reimbursable general obligation bonds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the airport revenue bonds to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities

under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to Sections 243-4(a)(2) and 248-8, Hawaii Revised Statutes, as amended, or such parts of either thereof as the department may determine, including rents, landing fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund. The Governor, in his discretion, is authorized to use the airport revenue fund to finance those projects in Part II where the method of financing is designated to be by airport revenue bond funds or reimbursable general obligation bond funds."

SECTION 6. Act 195, Session Laws of Hawaii 1975, is amended by adding a new section 93A to read:

**"Sec. 93A Harbor Revenue Bonds.** The Department of Transportation is authorized to issue harbor revenue bonds for harbor capital investment projects authorized in Part II and listed in Part IV of this act and which are designated to be financed by revenue bond funds or by reimbursable general obligation bonds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be deemed necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the harbor revenue bonds to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of part III, chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, and pilotage fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of harbors and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the harbor special fund. The Governor, in his discretion, is authorized to use the harbor special fund to finance those projects in Part II where the method of financing is designated to be harbor revenue bond funds or reimbursable general obligation bond funds."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 14, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Real Property Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 246-10, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

- “(f)(1) In determining the value of land, other than land classified and used for agriculture, consideration shall be given to selling prices and income (including, where available, such data relating to the property being assessed and similar data for comparable properties), productivity, and the nature of use (actual and potential), the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, zoning, dedication of lands as provided for in section 246-12, and further to the opinions of persons who may be considered to have special knowledge of land values, and all other influences, whether similar to those listed or not, which fairly and reasonably bear upon the question of value.
- (2) In determining the value of lands which are classified and used for agriculture, whether such lands are dedicated pursuant to section 246-12 or not, consideration shall be given to rent, productivity, nature of actual agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of persons who may be considered to have special knowledge of land values.
- (3) A deferred or roll back tax shall be imposed on the owner of agricultural lands assessed according to its agricultural use as provided in subsection (a) of this section in the event of a change in land use classification by the authorized state agency to urban or rural districts or upon the subdivision of the land into parcels of five acres or less, provided that the tax shall not apply if the owner dedicates his land as provided in section 246-12 within three years from the date of change in land use classification and fulfills all of the requirements of the dedication. The deferred tax shall be due and payable at the end of the third year following the change in land use classification provided that the land shall continue to be used for agriculture during this period. The total amount of deferred taxes shall be computed commencing at the end of the third year following the change in classification where the land has continuously been used for agriculture; provided however that where the land has been put to a higher urban or rural use prior to the expiration of the three-year period the amount of deferred taxes shall be computed commencing at the end of the year in which the land has been put to such higher urban or rural use, and shall be retroactive to the date the assessment was made pursuant to

subsection (a) of this section provided the retroactive period shall not exceed ten years. Where the owner has subdivided his land into parcels of five acres or less, the deferred tax shall commence from the date the conversion was made retroactive to the date the assessment was made pursuant to subsection (a) of this subsection but for not more than ten years. Any other provisions to the contrary notwithstanding, the deferred or roll back tax shall apply only if a change in land use classification has been made as a result of a petition by any property owner or lessee and shall apply only upon lands owned by the owner or lessee who has petitioned for the change in classification. The deferred or roll back tax shall not apply to lands owned by any owner or lessee who has not petitioned for the change in classification provided the owner or lessee shall continue to use the land in its agricultural use for a period of three years after the change in land use classification is made, or where the change in classification is initiated by any governmental agency or instrumentality. The deferred or roll back tax shall be based on the difference in assessed value between the highest and best use and the agricultural use of the land, at the tax rate applicable for the respective years.

(A) Where the owner subdivides his land into parcels of five acres or less, the deferred tax shall be due and payable within sixty days of such conversion, subject to a ten per cent per annum penalty, provided that if the conversion occurs within five years of the date of enactment of this law, twice the amount of taxes and penalties as provided herein shall become due and owing.

(B) Where the owner changes the land use classification, the deferred tax shall be due and payable within three years of such conversion except that where the land has been put to its higher urban or rural use, the tax shall be due and payable at the end of the year in which the land has been put to such higher use, subject to a ten per cent per annum penalty.

Any other provisions to the contrary notwithstanding, the land shall continue to be assessed in its agricultural use as provided in subsection (a) of this section until the land is put to its higher urban or rural use or for a period of three years following the change in classification whichever is shorter, provided that for purposes of determining the amount of deferred taxes to be assessed to the owner or lessee, the retroactive period shall include the period during which the land is continued to be assessed in its agricultural use following the change in classification. Any tax due and owing shall attach to the land as a paramount lien in favor of the State pursuant to section 246-55.

- (4) Where lands located within agricultural districts are put to agricultural uses, that portion of such lands not usable or suitable for any agricultural use, whether dedicated pursuant to section 246-12 or not, the tax upon such unusable or unsuitable land shall be deferred and shall be payable upon conversion as provided under this section."

SECTION 2. Section 246-12, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Failure of the owner to observe the restrictions on the use of his land shall cancel the dedication and special tax assessment privilege retroactive to the date of the dedication, but in any event, shall not exceed the term of the original dedication, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten per cent a year penalty from the respective dates that these payments would have been due. The additional taxes and penalties, due and owing as a result of a breach of the dedication, shall be a paramount lien upon the property pursuant to section 246-55. Failure to observe the restrictions on the use means failure for a period of twelve consecutive months to use the land in that manner requested in the petition or the overt act of changing the use for any period provided that a change in land use classification upon petition by the owner of such dedicated lands shall not be deemed to constitute an overt act of changing the use of the land. Any other provisions to the contrary notwithstanding, when a portion of the dedicated land is subsequently applied to a use other than the use set forth in the original petition, only such portion as is withdrawn from the dedicated use and applied to a use other than ranching or other agricultural use shall be taxed as provided by this subsection.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 112

H.B. NO. 84

A Bill for an Act Relating to Art in State Buildings and Structures.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 9-3, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 9-3 Duties. The foundation shall:

- (1) Assist in coordinating the plans, programs, and activities of individuals, associations, corporations, and agencies concerned with the preservation and futherance of culture and the arts;
- (2) Appraise the availability, adequacy, and accessibility of culture and the arts to all persons throughout the State and devise programs whereby culture and the arts can be brought to those who would otherwise not have the opportunity to participate;
- (3) Stimulate, guide, and promote culture and the arts, throughout the State;

\*Edited accordingly.

- (4) Devise and recommend legislative and administrative action for the preservation and furtherance of culture and the arts;
- (5) Study the availability of private and governmental grants for the promotion and furtherance of culture and the arts;
- (6) Through its chairman administer funds allocated to the foundation; accept, disburse, and allocate funds which may become available from other governmental and private sources; provided that all such funds shall be disbursed or allocated in compliance with any specific designation stated by the donor and in the absence of such designation, such funds shall be disbursed or allocated for the promotion and furtherance of culture and the arts;
- (7) Select and employ a director to serve on a part-time or full-time basis who shall be a person who by reason of education or extensive experience is generally recognized as being professionally qualified in the fields of culture and the arts and who shall be exempt from the provisions of chapters 76 and 77 and select necessary additional staff subject to chapters 76 and 77, within available appropriations;
- (8) Submit an annual report with recommendations to the governor and legislature, prior to February 1, of each year; provided that the second annual report thereof shall include recommendations as to the responsibility and role which the State should assume in the long-run with respect to preservation and furtherance of culture and the arts in Hawaii and as to organization and administrative arrangements which should be provided for in law and otherwise; and
- (9) Display student art works in public buildings, sponsor student art displays, and in other ways encourage the development of creative talent among the young people of Hawaii."

SECTION 2. Chapter 9, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"Sec. 9- Student art work.** The foundation, in consultation with the department of education, the University of Hawaii, private schools, and community art groups, shall establish a program for the recognition and display of student art work. Student art work shall mean any work of art made by any student attending any elementary, intermediate, high school, college, or university in the State.

Recognition shall be through the sponsoring of student art exhibits and the granting of scholarships, monetary awards, or certificates to the student whose art work is being recognized. Any funds appropriated to the foundation may be used for the recognition of student art work. Student art work recognized under this section may be acquired for the purpose of temporary or permanent display in state buildings and public facilities pursuant to section 103-18.

**Sec. 9- Rules.** The foundation shall adopt rules in consultation with the comptroller for the purposes of administering this chapter. Such rules shall be adopted in accordance with Chapter 91."

SECTION 3. Section 103-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-8 Art in state buildings.** All appropriations for the original construction of any state building shall include, as a nondeductible item, an amount of one per cent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited in other public facilities. If the amount shall not be required in toto or in part for any project, the unrequired amounts may be accumulated and expended for other projects or may be used to defray costs of transportation and upkeep of works of art for exhibition in public facilities.

The comptroller shall, in consultation with the state foundation on culture and the arts, determine the amount to be made available for the purchase of works of art for each project, and payments therefor shall be made, after acceptance, in accordance with law.

The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art including student art work pursuant to section 9- shall be the responsibility of the comptroller and the state foundation on culture and the arts."

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. Statutory material to be revealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

## ACT 113

H.B. NO. 166

A Bill for an Act Relating to Community Correctional Center.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-1.1, Hawaii Revised Statutes, is amended to read:

**"Sec. 353-1.1 Establishment of community correctional centers.** There shall be a community correctional center for each of the counties under the direction and administration of the director of the department of social services and housing. Any community correctional center may be integrated and operated concurrently with any other correctional facility or facilities. Each center shall:

- (1) Provide residential detention for persons awaiting judicial disposition who have not been conditionally released;

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\*Edited accordingly.

- (2) Provide residential custody and correctional care for committed misdemeanants and for felony offenders committed to indeterminate sentences;
- (3) Provide for committed persons, correctional services, including but not limited to social and psychiatric-psychological evaluation, employment counseling, social inventory, correctional programming, medical and dental services;
- (4) Provide for committed persons, recreational, educational, and occupational training and social adjustment programs;
- (5) Provide for persons released from the centers, referrals to community educational, vocational training, employment, and work study programs; and aftercare, supervisory and counseling services.

The community correctional centers may be staffed by full-time or part-time professional staff appointed pursuant to chapter 76, or may utilize contractual professional services."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect on July 1, 1977.

(Approved May 31, 1977.)

ACT 114

H.B. NO. 176

A Bill for an Act Relating to Plant and Non-Domestic Animal Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 150A, Hawaii Revised Statutes, Part II, Regulation of Importation, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 150A- Interim rules.** (a) The department shall have the power, subject to the provisions of this section, to establish, implement, and enforce interim rules governing the transporting of flora and fauna into and within the State. Such rules shall not be subject to chapter 91.

(b) An interim rule may be adopted in the event that the importation or movement of any flora or fauna, in the absence of effective rules, creates a situation dangerous to the public health and safety or to the ecological health of flora or fauna present in the State which is so immediate in nature as to constitute an emergency. No interim rule shall be adopted without such a finding by the advisory committee on plants and animals created under section 150A-10.

(c) Interim rules adopted by the department pursuant to this section shall be effective as stated by such rules; provided that any interim rule shall be published at least once in each newspaper of general circulation in the State within five days of issuance; and provided, further, that no interim rule shall be effective for more than one hundred eighty days.

\*Edited accordingly.

(d) Any person may appeal the reasonableness of any interim rule or determination of the advisory committee to the circuit court."

SECTION 2. Section 150A-5, Hawaii Revised Statutes, Part II, Regulation of Importation is amended to read:

**"Sec. 150A-5 Conditions of importation.** The importation of any of the following articles, viz., nursery-stock, tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain, cereal, or legume in the natural or raw state; moss, hay, straw, dry-grass, or other forage; unmanufactured log, limb, or timber, or any other plant-growth or plant-product, unprocessed or in the raw state; soil, live bird, reptile, bacteria, fungus, nematode, virus, insect or other animal in any state of development (that is in addition to the so-called domestic animal, the quarantine of which is provided for in other sections); box, vehicle, baggage, barrel, or crate or other container in which such articles have been transported or contained or any packing material used in connection therewith, into the State, shall be made and conducted in the manner and subject to the conditions hereinafter set forth:

- (1) Notification of arrival. Any person, who receives for transport, brings or causes to be brought to the State, as freight, air freight, baggage, or otherwise, for the purpose of debarkation or entry therein, or as ship's stores, any of the articles enumerated, shall, immediately upon the arrival thereof, notify the department in writing, of the arrival, giving the waybill number, container number, name and address of the consignor, name and address of the consignee or his responsible agent in the State, marks, number of packages, description of contents of each package, port at which laden, and any other information that may be necessary to locate or identify the same, and shall hold such articles on the dock, pier, wharf, airport, air terminal, or other places, where they are first received or discharged, in such a manner that they will not spread or be likely to spread any infestation or infection of insects or diseases that may be present until inspection and examination can be made by the inspector, to determine whether or not any article, or any portion thereof, is infested, infected with or contains any pest. In addition, by rules and regulations, the department shall designate restricted articles that shall require a permit to be obtained from the department in advance of importation. The restricted articles shall include, but not be limited to, fungi, bacteria, virus, or living insects. Failure to obtain such permits in advance shall result in the articles being refused entry, or confiscated or destroyed. Any expense or loss in connection therewith shall be borne by the owner or his responsible agent in the State.
- (2) Individual passengers, officers and crew.
  - (A) It shall be the responsibility of the transportation company to distribute the State of Hawaii plant and animal declaration forms to each passenger, officer and crew member of any aircraft or vessel originating from the United States or its possession, or from any other areas not under the jurisdiction of the appropriate

federal agency prior to arrival in order that the passenger, officer and crew member can comply with the directions and requirement appearing thereon. Any adult, guardian of minor or transiting passenger, officer and crew member bringing or causing to be brought for entry into the State the items listed on the form shall complete the declaration. Any person who defaces the declaration form required under this section, gives false information, or fails to declare restricted materials in his possession or luggage or fails to declare in cargo manifests shall be in violation of this section.

- (B) Such completed forms shall be collected by the transportation company and be delivered, immediately upon arrival, to the inspector at the first airport or seaport of arrival.
- (3) Plant and animal declaration form. Such forms will include directions for declaring domestic and other animals cited in chapter 142, in addition to the articles enumerated in this chapter.
- (4) Labels. Each and every case, box, package, crate, bale, or bundle containing any of the articles above enumerated, imported into the State, shall have plainly and legibly marked thereon, in a conspicuous manner and place, the name and address of the shipper or owner forwarding or shipping the same, the name or mark of the person to whom the same is forwarded or shipped or his responsible agent, the name of the country, state, or territory and locality therein where the product was grown or produced and a statement of the contents of the package. Upon failure to comply with this paragraph the importer or carrier shall be liable to suffer the penalty for the violation of this section.
- (5) Authority to inspect. Whenever he has good cause to believe that the provisions of this chapter are being violated, the inspector may:
  - (A) Enter any aircraft, ship, vessel, or other carrier, at any time after its arrival within the boundaries of the State, whether offport, off-shore, at the dock, pier, wharf, airport or air terminal.
  - (B) Enter into or upon any dock, pier, or wharf, warehouse or depot, airport or air terminal, or any other place in the State, where any of the above-mentioned articles are moved or stored, for the purpose of ascertaining, by inspection and examination, whether or not any of the items listed in this section is infested or infected with any pest or contaminated with soil.
  - (C) Inspect any baggage and personal effects of disembarking passengers, officers and members of crews on aircraft, ships, vessels, or other surface craft arriving into the State to ascertain if they contain any of the articles or pests enumerated in this chapter.

Such baggage inspection shall be made at the discretion of the inspector, on the dock or on the ship, vessel, other surface craft or aircraft or in any quarantine or inspection area. No baggage or other personal effects of the passengers or crew members shall be released until said effects have been passed.

Whenever he has good cause to believe that the provisions of this

chapter are being violated, the inspector may require that any box, bale, crate, bundle, package, truck, bag, suitcase, or other container carried as ship's stores, cargo or otherwise, by any ship, vessel, other surface craft or aircraft moving between the continental United States and Hawaii, or between the Hawaiian Islands be opened for inspection to determine whether any article or pest prohibited by this chapter or by regulations promulgated pursuant thereto is present. If any prohibited article or any pest or any plant, fruit or vegetable infested with plant pests is found, the department may order the return of the article to the place of origin or otherwise dispose of it or such part thereof as necessary to comply with this chapter.

Any expense or loss in connection therewith shall be borne by the owner or his responsible agent in the State.

- (6) Request for importation and inspection. In addition to requirements of the United States customs authorities concerning invoices or other formalities incident to importations into the State, the importer shall be required to file a written statement with the department, signed by himself or his responsible agent in the State, setting forth his desire to import certain of the articles above enumerated, into the State, and giving the following additional information: the kind (scientific name), quantity, and description of same; the locality where same were grown or produced; the certification that all animals to be imported are the progeny of captive populations or have been held in captivity for a period of one year immediately prior to importation or have been specifically approved for importation by the board; the port from which the same were last shipped; the name of the shipper; and the name of the consignee thereof. The statement shall also contain:

- (A) A request that the department, by its duly authorized agent, examine the articles described;
- (B) An agreement by the importer to be responsible for all costs, charges, or expenses; and
- (C) A waiver of all claims for damages incident to the inspection or the fumigation, disinfection, quarantine, or destruction of the articles, or any of them, as hereinafter provided for, if any treatment is adjudged necessary.

Failure or refusal to file a statement, including the agreement and waiver, shall be held to be a violation of this section and may, in the discretion of the department, give sufficient cause for refusing to permit the entry of the articles into the State.

- (7) Place of inspection. If, in the judgment of the inspector, it is deemed necessary or advisable to move any of the articles above enumerated or any portion thereof, to a place more suitable for inspection than the dock, pier, wharf, airport, air terminal, depot or other place where they are first received or discharged, authority therefor is granted, and all costs and expenses incident to the movement and transportation of

the articles to such place shall be borne by the importer or his responsible agent in the State owning or having charge thereof.

- (8) Disinfection or quarantine. If upon inspection, any article so received or brought to the State for the purpose of debarkation or entry therein is found to be infested or infected, or there is reasonable cause to presume that it is infested or infected and the infestation or infection can, in the judgment of the inspector, be eradicated, a treatment shall be given such article. The treatment shall be at the expense of the owner or his agent, and the treatment shall be as prescribed by the department. The article shall be held in quarantine at the expense of the owner or his responsible agent, at a satisfactory place approved by the department, for a sufficient length of time to determine that eradication has been accomplished. If the infestation or infection is of such nature or extent that it cannot be effectively and completely eradicated in the manner described above, or if it is a potentially destructive pest, or not widespread in the State, or after treatment it is determined that the infestation or infection is not completely eradicated, the article, or any portion thereof, together with all packing and containers, may, at the discretion of the inspector be destroyed or sent out of the State at the expense of the owner or his responsible agent in the State. Such destruction or exclusion shall not be made the basis of a claim against the department or the inspector for damage or loss incurred.
- (9) Disposition. At the time of arrival, or at any time thereafter, should any article be held for inspection, treatment or quarantine, the inspector shall upon completion of inspection, affix to the article or the container or to the delivery order in a conspicuous place thereon, a tag, label, or stamp to indicate the article has been inspected and passed. This action shall in effect be a permit to bring the article into the State.
- (10) What constitutes importation. The landing of any of the articles for the purpose of inspection or quarantine is not, nor shall it be construed to be, an importation in the sense of giving to the articles so landed any status, or the owner thereof any right or privilege, incident to articles which have actually been imported into the State; but in legal effect the articles so landed for the purpose of inspection shall be construed to be still without the State seeking entry thereinto, and shall not, in whole or in part, be considered suitable for importation into the State unless tag, label, or stamp has been affixed thereon by the inspector as provided in section 150A-5(9).
- (11) Exceptions to right to import. Nothing in this chapter contained shall permit the importation of any animal or article, from any particular place, if the same, or any of them, has, by special rule or regulation of the department been prohibited.
- (12) Ports of entry. None of the articles enumerated in this section shall be allowed entry into the State except through the air and sea ports in the State designated and approved by the board.
- (13) Enforcement; citation and summons; penalty. Any officer or employee

of the department, authorized and designated by the board to enforce the provisions of this chapter, and all rules and regulations promulgated and adopted by the department pursuant thereto, may issue a citation to any person for violation of any provision of this chapter or of any rule or regulation promulgated and adopted pursuant thereto, and issue to him a summons summoning him to appear at a certain place at a time within seven days of such citation, to answer the charges against him.

- (A) Form of citation and summons. There shall be printed a form of citation and summons for use in citing violators of this chapter and regulations promulgated pursuant thereto. The form and contents of such citation and summons shall be as adopted or prescribed by the district courts.

In every case when a citation and summons are issued the original of the same shall be given to the accused; provided that, the district courts may prescribe the issuance to the accused of a carbon copy of the citation and summons and provide for the disposition of the original and any other copies. Every citation and summons shall be consecutively numbered and each carbon copy shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

- (B) Administration of oath. When a complaint is made to any prosecuting officer of the violation of the provisions of this chapter or the rules and regulations promulgated and adopted pursuant thereto, the officer or employee who is issued the citation and summons shall subscribe to the complaint under oath.
- (C) Penalty. Any person who violates any section of this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both."

SECTION 3. Section 150A-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 150A-8 Transporting in State.** Flora and fauna specified by rules and regulations of the department shall not be moved from one island to another island within the State or from one locality to another on the same island except by a permit issued by the department."

SECTION 4. Chapter 150A is amended by adding a new part to be appropriately designated and to read:

### **"PART III. NURSERY STOCK EXPORT SHIPMENTS**

**Sec. 150A- Certification for shipment.** The department may certify as to the pest condition or post treatment of shipments when officially required. Fees may be charged for certificates in certain instances.

**Sec. 150A- Responsibility for treatment.** Any treatment of nursery stock which may be required under the provisions of law shall be at the risk and at the expense of the owner or persons in charge or in possession thereof at the time of treatment, unless otherwise provided.

**Sec. 150A- Nursery stock certificate.** The department may issue and authorize the use of nursery stock certificates by any shipper complying with its regulation for nursery inspection. Shipments accompanied by these certificates may move to other localities within the county or to other counties without inspection at destination. Nursery stock certificates may be issued for interstate shipments. Fees may be charged for nursery certification. Nursery stock certificates shall not be altered or misused.

The department may revoke or suspend the right to use any nursery stock certificate which is issued to any person who fails to comply with requirements for their use."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 115

H.B. NO. 199

A Bill for an Act Relating to Environmental Quality.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342-1, Hawaii Revised Statutes, is amended by amending the definition of "permit" to read:

"(5) "Permit" means written authorization from the director to discharge waste or to construct, modify, or operate any air pollution source, water pollution source, excessive noise source, or solid waste disposal system. A permit authorizes the grantee to cause, emit or discharge waste or pollution in a manner or amount, or to do any act, not forbidden by this chapter, or by rules and regulations promulgated under this chapter, but requiring review by the department."

SECTION 2. Section 342-1, Hawaii Revised Statutes, is amended by amending the definition of "variance" to read:

"(9) "Variance" means special written authorization from the director to cause, emit, or discharge waste or pollution in a manner or in an amount in excess of applicable standards, or to do an act that deviates from the requirements of rules or regulations promulgated under this chapter."

SECTION 3. Section 342-1, Hawaii Revised Statutes, is amended by amending the definition of "waste" to read:

"(10) "Waste" means sewage, industrial and agricultural matter, excessive noise and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute the atmosphere, lands or waters of this State."

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\*Edited accordingly.

SECTION 4. Section 342-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-7 Variances.** (a) Every application for a variance shall be made on forms furnished by the department and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to standards, and such other information as the department may by rule or regulation prescribe.

(b) Each application for a variance shall be reviewed in light of the descriptions, statements, plans, histories, and other supporting information submitted with the application, such additional information as may be submitted upon the request of the department, and the effect or probable effect upon the air and water quality standards and noise level standards established pursuant to this chapter.

(c) Whenever an application is approved, the department shall issue a variance authorizing the emission or discharge of pollutant or noise in excess of applicable standards. No variance shall be granted by the department unless the application and the supporting information clearly show that:

- (1) The continuation of the function or operation involved in the discharge of waste by the granting of the variance is in the public interest as defined in section 342-6;
- (2) The emission or discharge occurring or proposed to occur does not substantially endanger human health or safety; and
- (3) Compliance with the rules, regulations or standards from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(d) Any variance or renewal thereof shall be granted within the requirements of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control or abatement of the pollution or excessive noise involved, it shall be only until the necessary means for prevention, control, or abatement become practicable and subject to the taking of any substitute or alternate measures that the department may prescribe. No renewal of variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the pollution or excessive noise involved.
- (2) The director may issue a variance for a period not exceeding ten years.
- (3) Every variance granted under this section shall include conditions requiring the grantee to perform air, discharge, effluent, or noise sampling and report the results of such sampling to the department.

(e) Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding ten years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided, further, that the renewal, and the variance issued in pursuance thereof, shall provide for emission or discharge not greater than that attained pursuant to the terms of the immediately preceding variance

at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least one hundred eighty days prior to the expiration of the variance. The director shall act on an application for renewal within 180 days of the receipt of such application.

(f) The director may afford a hearing in accordance with chapter 91 in relation to an application for the issuance, renewal, or modification of a variance.

(g) No variance granted pursuant to this part shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

(h) Notwithstanding any provision in this section, no variance shall be granted or renewed pursuant to this part with respect to any discharge of pollutants or wastes which is in violation of the requirements of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) and the amendments thereto.

(i) Public participation.

(1) Public notices of every completed application for a variance shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed emission, discharge or other proposed activity. Procedures for the circulation of public notices shall include at least the following:

(i) Notice shall be circulated within the geographical areas of the proposed emission, discharge, or other proposed activity; such circulation shall include publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation;

(ii) Notice shall be mailed to any person or group upon request; and

(iii) The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all variance applications within the state or within a certain geographical area.

(2) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written reviews with respect to the variance application and the tentative determinations of the department, if any. The period for comment may be extended at the discretion of the director.

(3) The contents of public notices of applications for variances shall include at least the following:

(i) Name, address, phone number or agency issuing the public notice;

(ii) Name and address of each applicant;

(iii) Brief description of each applicant's activities or operations which result in the emission, discharge or other activity described in the variance application (e.g., rock crushing plant, municipal waste treatment plant, raw sugar factory, pineapple cannery);

(iv) A short description of the location of each emission or discharge indicating whether such emission or discharge is new or existing;

(v) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by paragraph (2) of this section and any other means by which

interested persons may influence or comment upon those determinations; and

- (vi) Address and phone number of state agency premises at which interested persons may obtain further information and inspect a copy of the variance applications and supporting and related documents.
- (4) The director may hold a public hearing if, after reviewing the comments submitted under paragraph (2) of this section, he determines that a public hearing is warranted. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed emission, discharge or other proposed activity, or other appropriate area, at the discretion of the director.
- (5) The director shall hold a public hearing when revising the state implementation plan under section 110(a) (3) of the Federal Clean Air Act, 42 U.S.C. Section 1857c-5 (a) (3), and the regulations promulgated thereunder."

SECTION 5. Chapter 342, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 342- Administrative penalties.** In addition to any other administrative or judicial remedy provided by this chapter, or by rules and regulations promulgated under this chapter, the director is authorized to impose by order the penalties specified in section 342-11(c). Factors to be considered in imposing an administrative penalty include the nature and history of the violation and of any prior violations, and the opportunity, difficulty, and history of corrective action. It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator. In any judicial proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid."

SECTION 6. Section 342-19, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-19 Effect of laws, ordinances, rules, and regulations.** (a) All laws, ordinances, rules, and regulations inconsistent with this part shall be void and of no effect.

(b) Any county may adopt ordinances, rules, and regulations governing any matter relating to environmental quality control which is not governed by a rule or regulation of the department adopted pursuant to this part; provided that any county ordinance, rule, or regulation relating to environmental quality control shall be void and of no effect as to any matter regulated by a rule or regulation of the department upon the adoption thereof except as provided in (c).

(c) Any county desiring to administer its own laws, ordinances, rules and regulations on the design, construction and operation of sewerage and treatment facilities may submit to the director a full and complete description of the program it proposes to establish and administer under county law. In addition, the county shall submit a statement from its corporation counsel or county attorney that the laws of such county provide adequate or more stringent

authority to carry out the described program. The director shall approve each such submitted program unless he determines that either adequate authority does not exist or the proposed standards are not equal to or are less stringent than those of the department."

SECTION 7. Section 342-31, Hawaii Revised Statutes, is amended by adding the definition of "pollutant" to read:

"(10) "Pollutant" means dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste."

SECTION 8. Section 342-31, Hawaii Revised Statutes, is amended by adding the definition of "waste" to read:

"(11) "Waste" means liquid, gaseous, or solid substance, whether treated or not."

SECTION 9. Section 342-33, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-33 Prohibition.** No person, including any public body, shall discharge any pollutant into state waters, or cause or allow any pollutant to enter state waters except as in compliance with the provisions of this chapter, rules and regulations promulgated pursuant to this chapter, or a permit issued by the director.

No person, including any public body, shall knowingly establish, extend, or alter any system of drainage, sewage, or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of currents depended upon for dilution without first securing approval in writing from the director."

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date. This Act shall not be construed to invalidate currently existing rules and regulations of the department.

SECTION 11. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 12. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 116

H.B. NO. 200

A Bill for an Act Relating to Drug Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended to read:

\*Edited accordingly.

**"Sec. 329-14 Schedule I.** (a) The controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramine;
- (13) Dextrophan;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etixeridine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacylmorphane;
- (29) Morpheridine;
- (30) Noracetylmethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proheptazine;
- (40) Properidine;
- (41) Propiram;

(42) Racemoramide;

(43) Trimerperidine.

(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine;
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Phoclodine;
- (23) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 2,5 dimethoxyamphetamine (2,5-DMA);
- (2) 3,4-methylenedioxy amphetamine;
- (3) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (4) 4-bromo-2, 5-dimethoxyamphetamine (4-bromo-2, 5-DMA);
- (5) 3, 4, 5-trimethoxy amphetamine;
- (6) Bufotenine;
- (7) 4-methoxyamphetamine (PMA);
- (8) Diethyltryptamine;
- (9) Dimethyltryptamine;
- (10) 4-methyl-2, 5-dimethoxylamphetamine;
- (11) Ibogaine;
- (12) Lysergic acid diethylamide;
- (13) Marijuana;
- (14) Mescaline;

- (15) Peyote;
- (16) N-ethyl-3-piperidyl benzilate;
- (17) N-methyl-3-piperidyl benzilate;
- (18) Psilocybin;
- (19) Psilocyn;
- (20) Tetrahydrocannabinols."

SECTION 2. Section 329-18, Hawaii Revised Statutes, is amended to read:

"Sec. 329-18 Schedule III. (a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless listed in another schedule any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Those compounds, mixtures, or preparation in dosage unit form containing any stimulant substance listed in Schedule II, and any other drug of the quantitative composition or which is the same except that it contains a lesser quantity of controlled substances;
- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Mazindol;
- (6) Phendimetrazine.

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
  - (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
  - (3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;
  - (4) Chlorexadol;
  - (5) Glutethimide;
  - (6) Lysergic acid;
  - (7) Lysergic acid amide;
  - (8) Methypylon;
  - (9) Phencyclidine;
  - (10) Sulfondiethylmethane;
  - (11) Sulfonethylmethane;
  - (12) Sulfonmethane.
- (d) Nalorphine.

(e) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- (1) Not more than 1.8 grams of codeine, or any of its salts, per 100

- milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
  - (4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
  - (7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
  - (8) Not more than 50 milligrams of morphine or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) The department may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system."

SECTION 3. Section 329-20, Hawaii Revised Statutes, is amended to read:

**"Sec. 329-20 Schedule IV.** (a) The controlled substances listed in this section are included in Schedule IV.

(b) Depressants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Chlorazepate;

- (5) Chlordiazepoxide;
- (6) Clonazepam;
- (7) Diazepam;
- (8) Ethchlorvynol;
- (9) Ethinamate;
- (10) Flurazepam;
- (11) Mebutamate;
- (12) Meproamate;
- (13) Methohexital;
- (14) Methlyphenobarbital;
- (15) Oxazepam;
- (16) Paraldehyde;
- (17) Petrichloral;
- (18) Phenobarbital.

(c) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

- (1) Fenfluramine.

(d) Stimulants. Unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline (including organometallic complexes and chelates thereof).

(e) The department may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) or any stimulant listed in subsection (d) from the application of any or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the degree of danger or probable danger of the substances which have a depressant or stimulant effect on the central nervous system."

SECTION 4. Section 329-39, Hawaii Revised Statutes, is amended to read:

"**Sec. 329-39 Labels.** Whenever a producer, manufacturer, or wholesaler of controlled substances, or an apothecary, sells or dispenses any such drug to a producer, manufacturer, or wholesaler thereof, or to an apothecary, physician, dentist, podiatrist, veterinarian, or practitioner, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor or dispenser and the amount, quantity, kinds, and form of controlled substance contained therein. Whenever an apothecary sells or dispenses any controlled substance on a prescription issued by a physician, dentist, podiatrist, or veterinarian, he shall affix to the bottle or other

container in which the drug is sold or dispensed his name and address, the serial number of the prescription, the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal, the name and address of the physician, dentist, podiatrist, or veterinarian by whom the prescription is written, and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed, except for the purpose of replacing it by his own lawful authorized label."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 117

H.B. NO. 201

A Bill for an Act Relating to Health Surveillance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 324, Hawaii Revised Statutes, is amended by adding a new part to read:

**"PART IV. HEALTH SURVEILLANCE**

**"Sec. 324-31 Identity of persons studied and material, restrictions.** (a) The identity, or any group of facts or any system of records which may lead to the identity, of any person whose condition or treatment has been studied shall be confidential and shall not be revealed in any report, release, or publication. The department of health may, however, use the names of persons when requesting additional information; provided, that approval shall first be obtained from the individual, the individual's parents or guardian in the case of a minor, or the next of kin in the case of a deceased person; and provided, that the identity or facts identifying the person shall not be released outside of the department of health.

**"Sec. 324-32 Release of information.** (a) Consistent with section 324-31 Hawaii Revised Statutes, and Public Law 93-380, the department of health may, if not otherwise prohibited by law release statistical records or information relating to the health surveillance program. The materials collected under this part shall only be used for the analysis of health, demographic, socio-economic, environmental and related factors for the evaluation of health problems, health programs, delivery and utilization of medical care, analysis and interpretation of public health trends, forecasting long and short range public health needs and for the determination of programs to meet such needs.

(b) The department of health may collect additional information requested by other public or private agencies and may release statistical information from the health surveillance program for research, educational or program purposes

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\*Edited accordingly.

to the public or private agencies or individuals.

**Sec. 324-33 Legal proceedings; information excluded from.** Findings, conclusions, or summaries pertaining to any individual resulting from studies within the scope of this part shall not be used against the individual or made available in any legal proceeding without the individual's consent.

**"Sec. 324-34 Penalty.** Any person violating this part shall be guilty of a misdemeanor."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 118

H.B. NO. 202

A Bill for an Act Relating to Vital Statistics Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 338-18, Hawaii Revised Statutes, is amended to read:

**"Sec. 338-18 Disclosure of records.** (a) To protect the integrity of vital statistics records, to insure their proper use, and to insure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital statistics records, or to copy or issue a copy of all or part of any such record, except as authorized by this part, or by such regulation as the department of health may make.

(b) The department shall not permit inspection of the records, or issue a certified copy of a certificate, or part thereof, unless it is satisfied that the applicant therefor is the registrant, the spouse of the registrant, parent of the registrant, a descendant of the registrant, a person having a common ancestor with the registrant, a legal guardian of the registrant, a person or agency acting on behalf of the registrant, a personal representative of the registrant's estate, or by order of a court of competent jurisdiction, and that the information contained therein is necessary for the determination of personal or property rights.

(c) The department may permit the use of data contained in public health statistical records for research purposes only, but no identifying use thereof shall be made.

(d) Index data consisting of name, age, and sex of the registrant and date, type and file number of the vital event and such other data as the director may authorize may be made available to the public.

(e) The department may permit persons working on genealogy projects access to microfilm or other copies of vital records of events that occurred more than seventy-five years prior to the current year.

(f) Subject to this section, the department may direct its local agents to make a return upon filing of birth, death, and fetal death certificates with them, of certain data shown thereon to federal, state, territorial, county, or municipal agencies. Payment by such agencies for such services may be made as the department shall direct."

SECTION 2. Section 338-30, Hawaii Revised Statutes, is amended to read:

**"Sec. 338-30 Penalties.** (a) Except where a different penalty is provided in this part, any person who violates this part, or neglects or refuses to perform any of the duties imposed upon him by this part, shall be fined not more than \$100.

(b) Any person who wilfully makes or alters any certificate or certified copy thereof provided for in this part except in accordance with this part, shall be fined not more than \$1,000, or imprisoned not more than six months, or both.

(c) Any person, who knowingly transports, or accepts for transportation, interment, or other disposition, a dead body without an accompanying permit issued in accordance with this part, shall be fined not more than \$500.

(d) Any person who presents false information in order to obtain access to or a certified copy of a vital record for which he is not eligible is guilty of a misdemeanor and shall be fined not more than \$1,000."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 119

H.B. NO. 251

A Bill for an Act Relating to the Extradition of Juvenile Fugitives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 571, Hawaii Revised Statutes, is amended by adding new sections, to be appropriately designated and to read as follows:

**"Sec. 571-** Any person who violates any law of this state defining a crime, and is at the time of the offense under the age of 18 years, and who thereafter flees from this state may be proceeded against in the manner provided by chapter 832, Hawaii Revised Statutes. Upon return of such person to this state by extradition or otherwise, proceedings shall be commenced in the manner provided for in this chapter.

**Sec. 571-** Any person who violates any law of another state defining a crime and is at the time of the offense under the age of 18 years, and who flees from justice and is found in this state may be proceeded against in the manner provided in chapter 832, Hawaii Revised Statutes. The circuit judge shall, for the purpose of detention, hold a hearing to determine whether the juvenile should be detained at the juvenile detention home or detention facility or in any other appropriate setting."

SECTION 2. Section 571-32, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-32 Detention; shelter; release; notice.** (a) If the child is not released as provided in section 571-31, he shall be taken without unnecessary

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\*Edited accordingly.

delay to the court or to the place of detention or shelter designated by the court. Any child taken into custody who requires care away from his home but who does not require secure physical restriction shall be given temporary care in any available foster family home or other shelter facility.

The officer or other person who brings a child to a detention or shelter facility shall at once give notice to the court, stating the legal basis therefor and the reason why the child was not released to his parents. In case the facility to which the child is taken is not an agency of the court, the person in charge of the facility in which the child is placed shall promptly give notice to the court that the child is in his custody. Prior to acceptance of the child for detention or shelter care, a prompt inquiry shall be made by a duly authorized staff member of the detention or shelter facility or officer of the court. Where it is deemed in the best interests of the child the judge or such officer or staff member or the director of detention services may then order the child or minor to be released, if possible, to the care of his parent, guardian, legal custodian, or other responsible adult, or he may order the child held in the facility subject to further order or placed in some other appropriate facility.

As soon as a child is detained, his parents, guardian, or legal custodian shall be informed, by personal contact or by notice in writing on forms prescribed by the court, that they may have a prompt hearing held by a circuit judge or district family judge regarding release or detention. A child may be released on the order of the judge with or without a hearing. The director of detention services may order the release of the child if an order of detention has not been made.

(b) No child shall be held in detention or shelter longer than forty-eight hours, excluding Sundays and court holidays, unless a petition has been filed or unless the judge shall otherwise order. No child may be so held longer than forty-eight hours, excluding Sundays and court holidays, after the filing of a petition unless an order for such continued detention or shelter has been signed by the judge.

(c) No child shall be released from such detention except in accordance with this chapter.

(d) No child shall at any time be detained in a police station, lockup, jail, or prison, except that, by the judge's order in which the reasons therefor shall be specified, a child whose conduct or condition endangers his own safety or the safety of others in the detention facility for children may be placed in some other place of confinement that the judge considers proper, including a jail or any other place of detention for adults.

(e) Where a child transferred for criminal proceedings in accordance with section 571-22 is detained, he shall be held in the detention facility used for persons charged with crime. When a child is ordered committed to an agency or institution, he shall be promptly transported to the place of commitment.

(f) Provisions regarding bail shall not be applicable to children detained in accordance with this chapter, except that bail may be allowed after a child has been transferred for criminal prosecution in accordance with section 571-22.

(g) The official in charge of a jail or other facility for the detention of adult offenders or person charged with crime shall inform the court immediately when a child who is or appears to be under eighteen years of age is received at the

facility.

(h) Any other provision of law to the contrary notwithstanding, any person otherwise subject to proceedings under chapter 832 who is under the age of eighteen may be confined in a detention facility, jail or correctional facility by order of a judge for the purposes set forth in section 832-12, 832-15 or 832-17."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 120

H.B. NO. 254

A Bill for an Act Relating to the Uniform Controlled Substances Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-55 is amended in the following ways:

1. By amending subsection (b) to read as follows:

"(b) Property subject to forfeiture under this chapter may be seized by the department upon process issued by any circuit court having jurisdiction over the property; provided that any county may, in addition to the department, seize motor vehicles under section 329-55(a)(4). Seizure without process may be made if:

- (1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this chapter;
- (3) The department or a county has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
- (4) The department or a county has probable cause to believe that the property was used or is intended to be used in violation of this chapter."

2. By amending subsection (d) to read as follows:

"(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the seizing authority subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the seizing authority may:

- (1) Place the property under seal;
- (2) Remove the property to a place designated by it; or
- (3) Require the sheriff to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

If a county seizes property under paragraph (a)(4) it shall immediately notify the department of the seizure, and shall relinquish the seized property to

\*Edited accordingly.

the department upon its request therefor. In the event the department does not request the property seized by the county, the property shall be disposed of by the county in a manner consistent with paragraph (e)."

3. By amending subsection (e) to read as follows:

"(e) When property is forfeited under this chapter the department may:

- (1) Retain it for official use;
- (2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;
- (3) Require the sheriff to take custody of the property and remove it for disposition in accordance with law; or
- (4) Forward it to be Bureau for disposition.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 121

H.B. NO. 372

A Bill for an Act Relating to Advertising upon Licensed Premises.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-44, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 281-44 Advertising Upon Licensed Premises.** The liquor commission may prescribe the character and extent of all advertisements, posters, or signs which may be posted or maintained in or about the licensed premises.

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 122

H.B. NO. 471

A Bill for an Act Relating to Vehicles Left Unattended on Private Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 290-11, Hawaii Revised Statutes, is amended to read as follows:

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\*Edited accordingly.

**"Sec. 290-11 Vehicles left unattended on private property.** Notwithstanding any other provision of this chapter, any vehicle left unattended without authorization of the owner or occupant of the property, may be towed away at the expense of the owner of the vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall be of such size and be placed in a location reasonably calculated to call the sign to the attention of potential parkers. Towing companies engaged by the owner, occupant, or person in charge of the property shall charge no more than \$25 a tow, \$37.50 for a tow using a dolly and \$2 for each 24-hour period of storage or fraction thereof. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles.

Each county by ordinance may enact additional restrictions to this section or may enact criminal sanctions in this area as required."

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 123

H.B. NO. 562

A Bill for an Act Relating to Worker's Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 79-16, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 79-16 Credits for employees receiving worker's compensation benefits.** Where an employee or officer in the service of the State or of the several counties is absent from work because of injuries incurred within the scope of his employment and the employee or officer is receiving worker's compensation benefits, the employee or officer shall continue to earn vacation, sick leave, and retirement credits as though he were not absent but performing duties of his regular employment. Section 386-57 or any other law to the contrary notwithstanding, the employee or officer may elect to have deducted from his worker's compensation benefits checks an amount calculated in the same manner as if he were not absent but performing duties of his regular employment to be used as his contribution to the retirement system."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Usury.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 478- Exemptions of certain mortgage loans.** The provisions of this chapter shall not apply to any mortgage loan wholly or partially secured by a guarantee or insurance or a commitment to insure issue under the provisions of the National Housing Act, Chapter 13 of Title 12 of the United States Code, the Veterans Benefit Act, subchapter I and II of Chapter 37 of Title 38 of the United States Code, and subchapter III of Chapter 8A of Title 42 of the United States Code.

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

A Bill for an Act Relating to State Chartered Credit Unions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 410, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 410- Privileges and immunities of credit unions.** Any credit union authorized to do business under the laws of this State shall have, with the prior consent of the commissioner, all rights, privileges, benefits, and immunities presently or hereafter possessed by federal chartered credit unions which are located in this State."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-581, Hawaii Revised Statutes, is amended to

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\*Edited accordingly.

read as follows:

**"Sec. 431-581 Credit union groups.** The lives of the members of a credit union may be insured under a policy issued to the credit union, which shall be deemed the policyholder, to insure members of the credit union for the benefit of persons other than the credit union or any of its officials, subject to the following requirements:

- (1) The credit union must have been formed for purposes other than obtaining insurance.
- (2) The members eligible for insurance under the policy shall be all of the members of the credit union, except any as to whom evidence of individual insurability is not satisfactory to the insurer, and the amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the credit union. No policy may be issued which provides term insurance on any member which together with any other term insurance under any group life insurance policy or policies issued to the credit union under this section exceeds \$4,000.
- (3) The premiums for the policy shall be paid by the policyholder either from the credit union's own funds or from charges collected from the insured members specifically for the insurance, or from both; provided that when the premium is paid by the members, or by the credit union and its members jointly, at least seventy-five per cent of the then eligible members, excluding any as to whom evidence of insurability is not satisfactory to the insurer, must elect to make the required contributions.
- (4) As used herein a "credit union" means a credit union chartered under the provisions of the Federal Credit Union Act or the Hawaii Credit Union Act, chapter 410."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 127

H.B. NO. 678

A Bill for an Act Relating to the Contractors Recovery Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 444-26, Hawaii Revised Statutes, is amended to read:

**"Sec. 444-26 Contractors recovery fund; use of fund; person injured; fees.** The contractors license board is authorized and directed to establish and maintain a contractors recovery fund from which any person injured by an act,

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\*Edited accordingly.

representation, transaction, or conduct of a duly licensed contractor, which is in violation of the provisions of this chapter or the regulations promulgated pursuant thereto, may recover by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$10,000 for damages sustained by the act, representation, transaction or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court; provided that recovery from the fund shall not be awarded to persons injured by an act, representation, transaction, or conduct of a contractor whose license was in an inactive status at the time of the injury.

For purposes of this chapter, "person injured" means and is limited to owners or lessees of private residences, including condominium or cooperative units, who have contracted with a duly licensed contractor for the construction of improvements or alterations to their own private residences.

Every contractor, when renewing his license in 1974, shall pay in addition to this license renewal fee, a fee of \$50 for deposit in the contractors recovery fund. On or after May 1, 1974, when any person makes application for a contractors license he shall pay, in addition to his original license fee, a fee of \$150 for deposit in the contractors recovery fund. In the event that the contractors license board does not issue the license, this fee shall be returned to the applicant.

SECTION 2. Section 444-27, Hawaii Revised Statutes, is amended to read:

**"Sec. 444-27 Additional payments to fund.** If, on December 31 of any year, the balance remaining in the contractors recovery fund is less than \$150,000, every contractor, when renewing his license during the following biennial renewal period, shall pay, in addition to his license renewal fee, a fee not to exceed \$150 for deposit in the contractors recovery fund."

SECTION 3. Section 444-28, Hawaii Revised Statutes, is amended to read:

**"Sec. 444-28 Statute of limitations; recovery from fund.** (a) No action for a judgment which may subsequently result in an order for collection from the contractors recovery fund shall be commenced later than six years from the accrual of the cause of action thereon. When any injured person commences action for a judgement which may result in collection from the contractors recovery fund, the injured person shall notify the contractors license board in writing to this effect at the time of the commencement of such action. The contractors license board shall have the right to intervene in and defend any such action. Nothing in this section shall supersede the statute of limitations as contained in section 657-8.

(b) When any injured person recovers a valid judgment in any circuit court or district court of the county where the violation occurred against any licensed contractor for such act, representation, transaction, or conduct which is in violation of the provisions of this chapter or the regulations promulgated pursuant thereto, which occurred on or after June 1, 1974, the injured person may, upon the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the

judgment was entered and, upon ten days' written notice to the contractors license board, may apply to the court for an order directing payment out of the contractors recovery fund, of the amount unpaid upon the judgment, subject to the limitations stated in this section. Before proceeding against the contractors recovery fund, the injured person must first proceed against any existing bond covering the licensed contractor.

(c) The court shall proceed upon such application in a summary manner, and, upon the hearing thereof, the injured person shall be required to show:

- (1) He is not a spouse of debtor, or the personal representative of such spouse.
- (2) He has complied with all the requirements of this section.
- (3) He has obtained a judgment as set out in subsection (b) of this section, stating the amount thereof and the amount owing thereon at the date of the application.
- (4) He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.
- (5) That by such search he has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(d) The court shall make an order directed to the contractors license board requiring payment from the contractors recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing of the truth of all matters required to be shown by the injured person by subsection (c) of this section and that the injured person has fully pursued and exhausted all remedies available to him for recovering the amount awarded by the judgment of the court.

(e) Should the contractors license board pay from the contractors recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed contractor, the license of the contractor shall be automatically terminated upon the issuance of a court order authorizing payment from the contractors recovery fund. No contractor shall be eligible to receive a new license until he has repaid in full, plus interest at the rate of six per cent a year, the amount paid from the contractors recovery fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(f) If, at any time, the money deposited in the contractors recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the contractors license board, shall when sufficient money has been deposited in the contractors recovery fund, satisfy such unpaid claims or portion thereof, in the order that such claims or portions thereof were originally filed.

(g) With respect to the repair or alteration of an existing residential building or structure or any appurtenances thereto, including but not limited to swimming pools, retaining walls, garages or sprinkling systems, initial construction of such appurtenances, and landscaping of private residences, including condominium or cooperative units, pursuant to a contract between the owner and a licensed contractor for which the owner has paid the contractor in full, should, because of the contractor's default, a mechanic's or materialman's lien be enforced against the property pursuant to section 507-47, the court hearing the action shall award such an owner or his assigns a valid judgment against the contractor in an amount equal to the amount of the lien together with reasonable attorney's fees as determined by the court. The judgment shall include an order directing payment out of the contractors recovery fund. Notwithstanding any other provisions of this section to the contrary, the owner or his assigns need not meet any other requirement to secure payment from the contractors recovery fund, except that notice of the lien enforcement hearing shall be given to the contractors license board so it may appear pursuant to section 444-31."

SECTION 4. Section 444-33, Hawaii Revised Statutes, is amended to read:

**"Sec. 444-33 Waiver of rights.** The failure of an injured person to comply with all of the provisions of this chapter relating to the contractors recovery fund shall constitute a waiver of any right hereunder."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. If H.B. No. 680, H.D. 1,† is passed by the legislature during this Regular Session of 1977, whether before or after the effective date of this Act, the corresponding provisions of H.B. No. 680, H.D. 1, shall be amended to conform with this Act.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

A Bill for an Act Relating to Fishing Regulations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 188, Part II, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 188- Fishing with gill nets.** It shall be unlawful for any person engaged in gill net fishing to leave his net unattended for a period of more than twelve hours.

\*Edited accordingly.

†Now Act 152.

Any person who violates this section shall be fined not less than \$100 nor more than \$500 or imprisoned not more than six months or both."

SECTION 2. Section 189-2 of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 189-2 Commercial fishing license.** It shall be unlawful for any person to engage in commercial fishing in the waters of the State or to sell or to offer for sale or to profit from any sale of fish anywhere in the State whether the fish are caught or taken in the waters of the State or outside the waters of the State, without first obtaining a commercial fishing license as provided in this section.

The department of land and natural resources shall issue commercial fishing licenses upon payment of the prescribed fees and receipt of properly completed applications upon such forms as may be prescribed by the department. The applications for commercial fishing licenses shall require a statement of the following information: the applicant's name, address, age, place of birth, length of residence in the State, height, weight, color of hair and eyes, citizenship, and other such information as may be pertinent.

Every commercial fisherman shall also be issued a commercial fishing badge. No commercial fisherman shall permit any other person to carry, display, or use his license or badge for any purpose. Every commercial fisherman shall display his badge in a prominent place upon his clothing while fishing and shall show his license upon demand of any officer authorized to enforce the fish and game laws of the State. Failure or refusal to so show the license shall be sufficient cause for immediate cancellation of such license by the department.

All licenses issued under this section shall be in force from the date of issuance to June 30 following the date of issuance. Duplicate licenses may be issued to any person upon affidavit that he has lost his license, and upon payment of a fee of 50 cents.

The fee for a commercial fishing license shall be:

- (1) \$10 for any person who has resided in the State for one year or longer, and
- (2) \$20 for all other persons, except that anyone who qualifies as a "trainee" fisherman under rules prescribed by the department of land and natural resources shall have such fee waived for a period of not more than 180 calendar days from the date on which such license is issued.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Fish and Game.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-26, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 188-26 Fishing with chemicals, poisons, intoxicants, electricity, etc., deleterious to aquatic life prohibited; exceptions; penalty.** It shall be unlawful for any person to fish for or attempt to fish for any fish or other aquatic life by means of any chemical, substance or electricity which serves to kill, intoxicate, narcotize or stun fish or other aquatic life thereby making capture possible. The possession of such chemicals, substances, or electrofishing devices by any person on or near the water where fish may be taken or aboard fishing vessels whether licensed for commercial fishing or not is declared to be prima facie evidence of a violation of this section. The department of land and natural resources may issue permits, however, to allow the possession of stated amounts of such chemicals or substances poisonous to fish and other aquatic life where, in the judgment of the department, the amounts in possession are for legitimate purposes or in quantities too small to be effective for poisoning fish. The department of land and natural resources may also issue permits for the use of electrofishing devices where, in the judgment of the department, such devices are to be used for bonafide fishery research or management purposes.

Any person who violates this section shall be fined not less than \$100 nor more than \$500, or imprisoned not more than six months, or both."

SECTION 2. Section 188-27, Hawaii Revised Statutes is amended to read as follows:

**"Sec. 188-27 Fish poisons, intoxicants and electrofishing devices defined.** The following named chemicals or substances are declared to be fish poisons or intoxicants within the meaning of section 188-26 to 188-28: hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing rotenone, tephrosin, or plant material from *Barringtonia asiatica*, *Cocculus ferrandianus*, *Hura crepitans*, *Piscidia erythrina*, *Tephrosia purpurea*, *Wikstroemia*, and any other substances which are specifically poisonous to fish. Within the meaning of section 188-26 to 188-28, electrofishing devices are declared to be any source of electrical energy with appurtenant devices for the introduction of electricity into water."

SECTION 3. **Repeals.** Section 188-28 is repealed.

SECTION 4. Material to be deleted is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its completion.

(Approved May 31, 1977.)

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\*Edited accordingly.

ACT 130

H.B. NO. 927

A Bill for an Act Relating to Poisons.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 330-4, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 131

H.B. NO. 930

A Bill for an Act Relating to Credit Card Offenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 851-4, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 851-4 Fraudulent use of credit cards, etc., penalties.** A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, (1) uses or attempts or conspires to use, for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of section 851-3 or a credit card which he knows is forged, expired, or revoked; or (2) obtains or attempts or conspires to obtain money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, violates this section and is subject to the penalties set forth in subsection 851-10(a), if the value of all money, goods, services, and other things of value obtained or attempted to be obtained in violation of this section does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 851-10(b), if such value exceeds \$100 in any six-month period.

Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, the notice shall be presumed to have been received ten days after mailing by registered or certified mail.”

SECTION 2. New statutory material is underscored. In printing this Act,

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\*Edited accordingly.

the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 132

H.B. NO. 1059

A Bill for an Act Relating to Agricultural Parks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to lower the cost of agricultural park development and to promote maximum utilization of the resources within such park. This purpose will be achieved by granting to the board of land and natural resources the flexibility to propose construction and improvement plans which, from time to time, may contravene existing standards. The legislative bodies of the various counties are granted veto power over such agricultural park proposals by this Act.

SECTION 2. Chapter 171, Part V, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 171- Park development.** Except as herein provided, the board of land and natural resources is empowered to develop, on behalf of the State or County in partnership with others, agricultural parks which shall be exempt from all statutes, ordinances, charter provisions, and rules and regulations of any governmental agency relating to zoning, subdivision, construction and building standards, provided that:

- (1) The development is situated within a State land use agricultural district;
- (2) The development does not contravene any safety standard or tariff approved by the public utilities commission for public utilities;
- (3) The board of land and natural resources shall have first presented the plans and specifications for the development to the legislative body of the county where the development is proposed, which shall have the right to approve or disapprove the development within forty-five days after presentment. If no action is taken by the legislative body involved within forty-five days after presentment, the development shall be deemed approved;
- (4) The final plans and specifications for the development approved by the legislative body of the county involved shall constitute the zoning, building, construction and subdivision standards for the development. No action shall be prosecuted or maintained against any county, its officials or employees, on account of actions taken by them in reviewing, approving or disapproving such plans and specifications. For purposes of sections 501-85 and 502-17, the chairman of the board of

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\*Edited accordingly.

land and natural resources or the responsible county official may certify maps and plans of lands connected with the development as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar;

- (5) The State shall assume the responsibility of maintaining all roads within State sponsored agricultural parks."

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 133

H.B. NO. 1062

A Bill for an Act Relating to the Use of School Buildings, Facilities and Grounds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 298-23, Hawaii Revised Statutes, is amended to read:

"**Sec. 298-23 Use of school facilities for recreational and community purposes.** All public school buildings, facilities, and grounds shall be available for general recreation purposes, and for public and community use, whenever these activities do not interfere with the normal and usual activities of the school, and its pupils, concerned. Any law or portion of any law to the contrary notwithstanding, the department of education shall issue such rules and regulations as are deemed necessary to carry out the purposes of this section and shall be empowered to issue licenses, revocable permits, concessions, or rights of entry to school buildings and grounds for such periods of use as deemed appropriate by the department. All such dispositions, including those in excess of fourteen days, need not be approved by the board of land and natural resources; provided, however, that approval by the board of land and natural resources shall be required when such dispositions are for periods in excess of a year."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Motor Vehicle Industry Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow motor vehicle salesmen to commence employment immediately upon applying for a salesman's license, in order to enable them to earn a living during the interim before issuance of such a license, which often can last several months due to administrative delays.

SECTION 2. Section 437-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 437-7 Application for issuance or renewal of license.** (a) Application. Any person desiring the issuance of a license under this chapter shall file an application therefor with the motor vehicle industry licensing board. Prior to the expiration of the term of a license, the holder shall file an application for renewal of the license. The board shall prescribe the form, information required, manner, and time for presentation of applications for issuance or renewal of licenses issued under this chapter, except as otherwise provided herein.

(b) A person applying for a salesman's license under this section shall be granted a temporary license by the executive secretary of the board, provided no patent disqualification of the applicant is disclosed or no valid objection to the granting of the temporary license is apparent and if all requirements relative to the filing of the application appear to have been met, including compliance with section 437-21, and the dealer files an affidavit certifying that this person is employed by and under the supervision of such dealer. A fee of \$10 shall be charged for the issuance of the temporary license, and such license shall remain in effect until the board acts on his application for a permanent license.

(c) Financial statements.

(1) Applicants for the issuance of a dealer's or auction's license shall furnish the following financial statements to the board:

(A) Sole proprietorship. An applicant proposing to operate as a sole proprietorship shall furnish a personal financial statement and a financial statement of the proposed business.

(B) Partnership. An applicant proposing to operate as a partnership shall furnish a personal financial statement for each general partner and a financial statement of the partnership.

(C) Corporation. A corporate applicant shall submit a corporate financial statement.

(2) The board shall determine and prescribe the requirement of, form, and information required, in financial statements for applicants for other licenses.

(3) All financial statements shall be certified as to accuracy by a public or certified public accountant or verified as to accuracy by the applicant under oath.

(d) Filing fees. All applicants for the issuance of a new license shall pay a \$25 filing fee concurrently with each application, except the filing fee for a new salesman's or auctioneer's license shall be \$10.

(e) Investigation and report. Upon the filing of any application, a staff

member shall indorse on it the date of filing. If no patent disqualification of the applicant is disclosed or no valid objection to the granting of the application is apparent and if all requirements relative to the filing of the application appear to have been complied with, the chairman of the board or executive secretary shall refer the application to a staff member for investigation and report. The report shall include:

- (1) A statement as to whether or not the applicant is for any reason disqualified by this chapter from obtaining or exercising a license; and whether or not he has complied with all the requirements of this chapter relative to the making and filing of his application; and
- (2) Information relating to any and all other matters and things which in the judgment of the staff member pertain to or affect the matter of the application or the issuance or the exercise of the license applied for; and
- (3) In the case of an application for a dealer's or auction's license, in addition to the foregoing:
  - (A) A description of the premises intended to become the licensed premises, and the equipment and surrounding conditions; and
  - (B) If the applicant has held a prior dealer's or auction's license for the same or any other premises within two years past, a statement as to the manner in which the premises have been operated and the business conducted under the previous license; and
  - (C) If the applicant proposes to engage in the business of selling new motor vehicles, a written statement from the applicable manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or such other evidence as prescribed by the board, that the applicant is authorized to sell or distribute such new motor vehicle in the county of licensing.

(f) Notice of interview. After the filing of the report, the board may interview the applicant and upon the interview and other information that is before the board, it may grant or deny the license.

(g) Prior inspection of premises. No new dealer's or auction's license shall be issued under this chapter unless and until the board has caused to be made a thorough inspection of the premises upon which the proposed business is to be conducted and is satisfied that it has met all the requirements as provided in this chapter and that all other general conditions and proposed methods of operation under the license are such as are suitable for carrying on the business in a reputable manner.

(h) Limitation on license.

- (1) A dealer's or auction's license issued under this chapter shall authorize the doing of the business at the licensed premises, the boundaries of which shall be determined by the map or plan submitted together with the application for license approved by the board; except in the case of an enlargement or reduction of the licensed premises with the approval of the board indorsed on an amended map or plan.
- (2) A license issued under this chapter shall authorize the doing of a business thereunder only for the county in which the license has been issued; and in the case of a salesman or auctioneer, the license shall

authorize him to be a salesman or auctioneer only for the dealer or auctions respectively named in the application for a license or an amended license.

(i) Motorcycles and motor scooters. A used motor vehicle dealer's license shall authorize the holder to sell new motorcycles and motor scooters if the licensee is franchised therefor."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

ACT 135

H.B. NO. 1224

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-572, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 431-572 Employee groups.** The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustee is deemed the policyholder, insuring employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

- (1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term employees shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors, or partnerships if the business of the employer and of such affiliated corporations, proprietors, or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term employees shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term employees shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.

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\*Edited accordingly.

- (2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's fund or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five per cent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy must cover at least ten employees at date of issue.
- (4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

SECTION 2. Section 431-574, Hawaii Revised Statutes is amended to read as follows:

**"Sec. 431-574 Labor union groups.** The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of the union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

- (1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.
- (2) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five per cent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy must cover at least twenty-five members at date of issue.
- (4) The amounts of insurance under the policy must be based upon some

plan precluding individual selection either by the members or by the union.

SECTION 3. Section 431-575, Hawaii Revised Statutes is revised to read as follows:

**"Sec. 431-575 Trustee groups.** The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or by one or more employers and one or more labor unions which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

- (1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term employees shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term employees shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.
- (2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or, except in the case of a policy issued to the trustees of a fund established wholly by two or more employers, partly from such funds and partly from funds contributed by the insured persons. No policy may be issued to the trustees of a fund established wholly by two or more employers on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five per cent of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy must cover at date of issue at least twenty-five persons and

not less than an average of four person per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if:

- (A) Either:
  - (i) The participating employers constitute at date of issue at least thirty-three and one third per cent of those employer members whose employees are not already covered for group life insurance, or
  - (ii) The total number of persons covered at date of issue exceeds two hundred; and
- (B) The policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.
- (4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or union.

SECTION 4. Section 431-577 of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 431-577 Public employee association groups.** The lives of a group of individuals may be insured under a policy issued to an association of public employees, which shall be deemed the policyholder, to insure members of the association for the benefit of persons other than the association or any of its officials, subject to the following requirements:

- (1) The association must have been formed for purposes other than obtaining insurance and have when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five per cent of the number of employees eligible for membership in such classes.
- (2) The members eligible for insurance under the policy shall be all of the members of the association, or all of any class or classes thereof determined by conditions pertaining to their employment or to membership in the association, or both.
- (3) The premium for the policy shall be paid by the policyholder, either from the association's own funds or from charges collected from the insured members specifically for the insurance, or from both. Any charges collected from the insured members specifically for the insurance, and the dues of the association if they include the cost of insurance, may be collected through deductions by the employer from the salaries of the members. The deductions from salary may be paid by the employer to the association or directly to the insurer. No policy may be placed in force unless and until at least seventy-five per cent of the then eligible members of the association, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have authorized their employer to make the required deductions from salary, or have otherwise assigned pay or arranged for payment of their individual contributions to the asso-

ciation. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

- (4) Charges collected from the insured members specifically for the insurance, and the dues of the association if they include the cost of insurance, may be determined according to each attained age or in not less than four reasonably spaced attained age groups. This provision, however, shall not preclude an average rate for the whole group with charges to the individual members based on a schedule of insurance graded by rank, salary bracket, or by length of service or seniority.
- (5) The policy must cover at least twenty-five persons at date of issue.
- (6) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the association.
- (7) As used herein, public employees means employees of the United States government, or of any state, or of any political subdivision or instrumentality or department or bureau or board or commission of any of them, or the national guard as an association in nature under its existing form.

SECTION 5. Section 431-578 of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 431-578 Mutual benefit society groups.** The lives of a group of individuals may be insured under a policy issued to a mutual benefit society, which shall be deemed the policyholder, to insure members of the society for the benefit of persons other than the society or any of its officials, subject to the following requirements:

- (1) The society must have been formed for purposes other than obtaining insurance and have, when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five per cent of the number of persons eligible for membership in such classes.
- (2) The member eligible for insurance under the policy shall be all of the members of the society, or all of any class or classes thereof, determined by conditions pertaining to their membership in the society.
- (3) The premium for the policy shall be paid by the policyholder, either from the society's own funds or from charges collected from the insured members specifically for the insurance, or from both. No policy may be placed in force unless and until at least seventy-five per cent of the then eligible members of the society, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have arranged for payment of their individual contributions to the society. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

- (4) Charges collected from the insured members specially for the insurance, and the dues of the society if they include the cost of insurance, may be determined according to each attained age or in not less than four reasonably spaced attained age groups.
- (5) The policy must cover at least twenty-five persons at date of issue.
- (6) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the society.
- (7) As used in this section, the term "mutual benefit society" has the same meaning as that ascribed to it in section 433-1. Any mutual benefit society participating in an insurance program under this section shall be exempted from the requirements of chapter 433 relative to the management or operation of its death or disability benefit funds with respect to the insurance program."

SECTION 6. Section 431-579 of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 431-579 Professional association groups.** The lives of a group of individuals may be insured under a policy issued to an association of professional persons, which shall be deemed the policyholder, to insure members of the association for the benefit of persons other than the association or any of its officials subject to the following requirements:

- (1) The association must have been formed for purposes other than obtaining insurance and have when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five per cent of the number of professional persons eligible for membership in such classes.
- (2) The members eligible for insurance under the policy shall be all of the members of the association, or all of any class of classes thereof determined by conditions pertaining to their profession or to membership in the association, or both.
- (3) The premium for the policy shall be paid by the policyholder, either from the association's own funds or from charges collected from the insured members specifically for the insurance, or from both. No policy may be placed in force unless and until at least seventy-five per cent of the then eligible members of the association, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have arranged for payment of their individual contributions to the association. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (4) Charges collected from the insured members specifically for the insurance, and the dues of the association if they include the cost of insurance, may be determined according to each attained age or in not less than four reasonable spaced attained age groups.

- (5) The policy must cover at least twenty-five persons at date of issue.
- (6) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the association.
- (7) As used herein "professional persons" means persons practicing a profession requiring examination and licensing under chapters 448, 453, 464, 466 and 605."

SECTION 7. Section 431-580, of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 431-580 Occupation, industry, or trade association groups.** The lives of a group of individuals may be insured under a policy issued to an association of individuals belonging to a single occupation, industry, or trade association, which shall be deemed the policyholder, to insure members of the association for the benefit of persons other than the association or any of its officials subject to the following requirements:

- (1) The association must have been formed for purposes other than obtaining insurance.
- (2) The members eligible for insurance under the policy shall be all of the members of the association.
- (3) The premium for the policy shall be paid by the policyholder, either from the association's own funds or from charges collected from the insured members specifically for the insurance, or from both. No policy may be placed in force unless and until at least seventy-five per cent of the then eligible members of the association, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have arranged for payment of their individual contributions to the association.
- (4) Charges collected from the insured members specifically for the insurance, and the dues of the association if they include the cost of insurance, may be determined according to each attained age or in not less than four reasonably spaced attained age groups.
- (5) The policy must cover at least twenty-five persons at date of issue.
- (6) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the association.

SECTION 8. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 9. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

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\*Edited accordingly.

## ACT 136

H.B. NO. 1319

A Bill for an Act Relating to Agricultural Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205- (a) of Section 1, Act 199, Session Laws of Hawaii 1976 is amended to read:

“(a) Within the agricultural district all lands with soil classified by the Land Study Bureau’s Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activity or uses related to farming and animal husbandry;  
Farm dwelling as used herein shall mean a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.
- (5) Public institutions and buildings which are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses including day camps, picnic grounds, parks and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines, and roadways, transformer stations, communications equipment building, solid waste transfer stations, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants and major storage tanks not ancillary to agricultural practices, or corporation yards or other like structures;
- (8) Retention, restoration, rehabilitation or improvement of buildings or sites of historic or scenic interest;
- (9) Roadside stands for the sale of agricultural products grown on the premises;
- (10) Buildings and uses, including but not limited to mills, storage and processing facilities, maintenance facilities that are normally considered direct accessory to the abovementioned uses; or
- (11) Agricultural parks.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

A Bill for an Act Relating to Promoting Drugs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"Sec. 712-1240.1 Defense to promoting.** It is a defense to prosecution for any offense defined in this part that the person who possessed or distributed the dangerous, harmful, or detrimental drug did so under authority of law as a practitioner, as an ultimate user of the drug pursuant to a lawful prescription, or as a person otherwise authorized by law."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

A Bill for an Act Relating to the Foundation on Culture and the Arts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 9-1, Hawaii Revised Statutes, is amended by amending the definition of "arts" to read:

"(1) "Arts" include music, dance, painting, drawing, sculpture, architecture, drama, poetry, prose, crafts, industrial design, interior design, fashion design, photography, television, motion picture art, unique or decorative plants, landscaping, and all other creative activity of imagination and beauty."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

A Bill for an Act Relating to Real Property Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 246-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-2 Tax base and rate.** Except as exempted or otherwise taxed, all real property in each county shall be subject each year to a tax upon sixty per cent or less of its fair market value determined in the manner provided by law, at such

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\*Edited accordingly.

rate as shall be determined in the manner provided in section 248-2. However, the director of taxation may use as the tax base a lesser percentage of fair market value; if he does so he shall certify to the county council the percentage so used at the time he furnishes the council the calculations as to the tax base pursuant to section 248-2(d), and if he does not do so he shall certify to the council that he has used sixty per cent of fair market value as the tax base. Both as to the calculations as to the tax base and also as to the percentage of fair market value used as the tax base, the director's certificate to the council shall be conclusive insofar as the validity of any tax rate is concerned, except for the right to appeal assessments of real property as may be provided by law. Whether the director uses as the tax base sixty per cent of fair market value or some other percentage of fair market value, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered, except as the result of a decision on an appeal as provided by law."

SECTION 2. Section 246-10, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

- "(d) (1) The land in each county shall be classified, upon consideration of its highest and best use, into the following general classes:
- (A) Single-family and two-family residential,
  - (B) Three or more family residential, apartment, hotel and resort,
  - (C) Commercial,
  - (D) Industrial,
  - (E) Agricultural, and
  - (F) Conservation.
- (2) In assigning land to one of the general classes the director of taxation shall give major consideration to the districting established by the land use commission pursuant to chapter 205, the districting established by a county in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors which influence highest and best use.

SECTION 3. Section 246-24, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 246-43, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-43 Notice of assessments; addresses of persons entitled to notice.**

On or before March 15 preceding the tax year, the director of taxation shall give notice of the assessment for the tax year against each known owner, by personal delivery to the owner or by mailing to him on or before such date postage prepaid and addressed to him at his last known place of residence or address a written notice identifying the property involved by the tax key and the general class established in accordance with section 246-10(d) and setting forth separately the valuation placed upon buildings, and the valuation placed upon all other real property, exclusive of buildings, determined pursuant to section 246-10, the exemption, if any, and the net assessed value of the property.

In addition to the foregoing, the assessor of each district shall in each year give notice of the assessments in his district for the year by public notice (by publication thereof in English at least three times on different days during the

month of March of such year in a newspaper of general circulation in the district, published in the English language) of a time when (which shall be not less than a period of ten days prior to March 31 preceding the tax year) and of a place where the records of taxable properties maintained in the district showing all assessments made for the district may be inspected by any person for the purpose of enabling him to ascertain what assessments have been made against him or his property and to confer with the assessor so that any errors may be corrected before the filing of the assessment list."

SECTION 5. Section 246-44, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-44 Assessment lists.** On or before April 19 preceding the tax year the director of taxation shall have prepared from the records of taxable properties maintained in each district a list in triplicate of all assessments made for each district, which list shall be signed and sworn to by the person preparing it. The assessment list shall identify the property assessed by its tax key and shall set forth the general class of the property established in accordance with section 246-10(d), the valuation of buildings and the valuation of all other real property, exclusive of buildings, the amount of exemption, if any, and the net assessed value of the property. The assessment list shall be the lists in accordance with which taxes shall be collected, subject only to change made by any court or other tribunal having jurisdiction, where appeals from assessments have been duly taken and prosecuted to final determination, and subject to section 231-22. There shall be noted upon such lists all appeals taken for the year and the amounts involved in each case. The original of the assessment lists shall be retained by the assessor and a duplicate of the information contained in the list shall be retained by the director. The lists may be made up of a separate sheet or card for each property. The director shall furnish a duplicate list to the county in such form and at such time as will not interfere with the preparation of those records needed for tax collection purposes."

SECTION 6. Section 246-47, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-47 Tax rolls; tax bills.** The tax collector shall prepare tax rolls for his district from the district assessment lists provided for by section 246-44, showing thereon, in each case, names and addresses of the assessed and amount of taxes which shall not be less than \$7 as provided for in section 248-2(f).

Each tax collector shall mail, postage prepaid, or deliver, each year on or before the billing dates as provided for by section 246-48, to all known persons assessed for real property taxes in his district for such year, respectively, tax bills demanding payments of taxes due from each of them respectively, but no person shall be excused from the payment of any tax or delinquent penalties thereon by reason of failure on his part to receive, or failure on the part of the tax collector so to mail or deliver such bill. The bill, if mailed, shall be addressed to the person concerned at his last known address or place of residence. Whenever any bill covers taxes for any real property owned, jointly or as tenants in common or otherwise, by more than one person, the bill shall be sent to each known co-owner but shall demand the full amount of the taxes due upon such real property."

SECTION 7. Section 248-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 248-2 Real property tax; determination of rates.** (a) The council of each county may increase or decrease the tax rate as which real property in that county shall be taxed for each tax year. A resolution increasing or decreasing the tax rate in each county shall be adopted on or before June 20 preceding the tax year for which property tax revenues are to be raised according to the following procedures:

- (1) After determining that any tax rate certified by the director of taxation under subsection (d) should be increased or decreased and the date of a public hearing concerning such determination, the council shall advertise its intention to increase or decrease the tax rate and the date, time, and place of the public hearing in a newspaper of general circulation in the county in which the rates are to be increased or decreased. The date of the public hearing shall be not less than ten days after the advertisement is first published and shall set forth the tax rate to be considered by the council.
- (2) After the public hearing provided for in paragraph (1), the council shall readvertise and reconvene within two weeks to adopt a resolution fixing the tax rate for the tax year for which property tax revenues are to be raised. The advertisement shall state the new rate to be fixed and the amount of the increase or decrease, and the date, time, and place of the public hearing scheduled for fixing such rate. The date, time, and place of the public hearing shall also be announced at the public hearing required by paragraph (1). If the resolution fixing the tax rate is not adopted within two weeks from the public hearing required by paragraph (1), the council shall again advertise and meet as required by paragraph (1).
- (3) If after adopting an increase or decrease in the tax rate as provided by paragraph (1) and (2), the council determines that it requires a further increase or decrease in a tax rate or fails to act in any specified period, the council shall readvertise and follow the requirements of paragraphs (1) and (2).

If the council of each county does not increase or decrease the tax rate certified to the council by the director of taxation under subsection (d) as provided in this subsection, the tax rate so certified shall be the tax rate in the county for the tax year for which the property tax revenues are to be raised.

(b) The council of each county shall increase or decrease the tax rate applicable in the county using the following method:

- (1) The total revenue to be raised from real property in the county shall be divided by the aggregate value of the taxable real property within the county. The aggregate value of taxable real property within the county shall mean the net assessed value of all real property in the county as of April 19 preceding the tax year. In all cases where appeals from the assessment of the department of taxation have not yet been finally determined, the values used in determining the aggregate shall be the value claimed by the taxpayer in each case, plus fifty per cent of the value in dispute.

(2) The rate shall be expressed in terms of the tax per \$1,000 of assessed value of taxable real property in the county, provided that the applicable rate for each county shall be computed to the nearest cent.

(c) If the tax rate for the tax year in any county is increased or decreased, the council shall notify the director of taxation of the increased or decreased rate, and the director shall employ such rate in the levying of property taxes in that county as provided by law.

(d) The director of taxation shall on or before May 1 preceding the tax year furnish each council with a calculation certified by him as being as nearly accurate as may be, of the aggregate value of taxable real property within the county plus such additional data relating to the property tax base as the council may request in writing. In addition, the director shall certify to the council of each county, the tax rate for the forthcoming tax year in each county by determining such tax rate by the method established in subsection (b) and by using the aggregate value of taxable real property within the county for the forthcoming year and the county's real property revenues for the current year. Upon its determination such tax rate shall be the tax rate for the county for the forthcoming tax year, unless the county increases or decreases the tax rate as provided in subsection (a).

(e) Insofar as the validity of any tax rate is concerned, the provisions of subsections (a) and (d) of this section as to dates, shall be deemed directory; provided that all other provisions of subsections (a) and (d) and all provisions of subsections (b) and (c) shall be deemed mandatory.

(f) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under chapter 246 a minimum real property tax of \$7 a year."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 9. This Act shall take effect upon its approval; provided that sections 1 to 8 of this Act shall take effect on January 1, 1980; and provided further that section 248-2(d), Hawaii Revised Statutes, to the contrary notwithstanding, the building tax factor shall be increased to eighty per cent on January 1, 1978 and to ninety per cent on January 1, 1979.

(Approved June 1, 1977.)

ACT 140

H.B. NO. 770

A Bill for an Act Relating to Land Use.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 205-2 Districting and classification of lands.** There shall be four major land use districts in which all lands in the State shall be placed: urban,

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Edited accordingly.

rural, agricultural, and conservation. The land use commission shall group contiguous land areas suitable for inclusion in one of these four major districts.

In the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included;

In the establishment of boundaries for rural districts, areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre and a minimum lot size of not less than one-half acre shall be included, except as herein provided;

In the establishment of the boundaries of agricultural districts the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation; and

In the establishment of the boundaries of conservation districts, the "forest and water reserve zones" provided in section 183-41 are renamed "conservation districts" and, effective as of July 11, 1961, the boundaries of the forest and water reserve zones theretofore established pursuant to section 183-41, shall constitute the boundaries of the conservation districts; provided that thereafter the power to determine the boundaries of the conservation districts shall be in the commission.

In establishing the boundaries of the districts in each county, the commission shall give consideration to the general plan of the county.

Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated.

Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low density residential lots, except that within a subdivision, as defined in Sec. 484-1, the commission for good cause may allow one lot of less than one-half acre, but not less than 18,500 square feet, or an equivalent residential density, within a rural subdivision and permit the construction of one dwelling on said lot, provided however, that all other dwellings in the subdivision shall have a minimum lot size of one-half acre or 21,780 square feet. Such petition for variance may be processed under the Special Permit Procedure. These districts may include contiguous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics.

Agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry; farming activities or uses related to animal husbandry, and game and fish propagation; services and uses accessory to the above activities including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities, and roadside stands for the sale of products grown on the premises; agricultural parts and open area recreational facilities.

These districts may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.

Conservation districts shall include areas necessary for protecting

watersheds and water sources; preserving scenic and historic areas; providing park lands, wilderness, and beach; conserving endemic plants, fish, and wildlife; preventing floods and soil erosion; forestry; open space areas whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources; areas of value for recreational purposes; and other related activities; and other permitted uses not detrimental to a multiple use conservation concept.

SECTION 2. Section 205-5, Hawaii Revised Statutes is amended to read as follows:

**"Sec. 205-5 Zoning.** (a) Except as herein provided, the powers granted to counties under section 46-4 shall govern the zoning within the districts, other than in conservation districts. Conservation districts shall be governed by the department of land and natural resources pursuant to section 183-41.

(b) Within agricultural districts, uses compatible to the activities described in section 205-2 as determined by the land use commission shall be permitted. Other uses may be allowed by special permits issued pursuant to this chapter. The minimum lot size in agricultural districts shall be determined by each county through its zoning ordinance, subdivision ordinance or other lawful means, provided that in no event shall the minimum lot size for any agricultural use be less than one acre.

(c) Unless authorized by special permit issued pursuant to this chapter, only the following uses shall be permitted within rural districts:

- (1) Low density residential uses;
- (2) Agricultural uses; and
- (3) Public, quasi-public and public utility facilities.

In addition, the minimum lot size for any low density residential use shall be one-half acre and there shall be but one dwelling house per one-half acre, except as provided for in section 205-2."

SECTION 3. This provision shall apply to lots of record existing prior to January 1, 1977, of not more than two acres.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

A Bill for an Act To Amend Section 841-12 Hawaii Revised Statutes Relating to the Removal of Bodies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 841-12 of the Hawaii Revised Statutes is amended to

\*Edited accordingly.

read as follows:

**"Sec. 841-12 Removal of corpse.** No corpse or remains of any dead human body appearing to have come to death under any of the circumstances set forth in section 841-3, shall be moved or disturbed from its place of death or disposed of by any person including the coroner or his deputies, the chief of police, or any police officer, without first receiving the authority of the coroner or his deputy, and of the police officer in charge, and of the coroner's physician. The removal of the body or bodies shall be the duty of the coroner.

Any person who violates the provisions of this section shall be subject to a fine of not more than \$100."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

ACT 142

H.B. NO. 780

A Bill for an Act Relating to Registration of Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-57, Hawaii Revised Statutes, as amended, is further amended by adding a new paragraph to read as follows:

**"Sec. 286-57 Unlawful removal of motor vehicles from State.** It shall be unlawful for any person to remove, attempt to remove, cause to be removed, or assist in so doing, any motor vehicle registered pursuant to this part from the State to any other place away from the State, unless he is the legal owner thereof or unless the written authorization of the legal owner thereof to the removal has first been obtained.

No person owning or having control of any vessel, airplane, or other means of transportation, and no agent or employee of such person, shall transport any such vehicle from the state to any other place away from the State, or accept the same for the transportation, or deliver any bill of lading, order, or other written instrument authorizing the transportation, unless the person requesting the transportation (1) produces a certificate of ownership and a current certificate of registration showing that he is the legal owner of the vehicle or (2) produces, if he is not the legal owner thereof, a current certificate of registration showing that he is the registered owner of the vehicle and, in addition thereto, the written consent of the legal owner thereof to the transportation.

No person owning or having control of any vessel, airplane, or other means of transportation, and no agent or employee of such person, shall transport any used vehicle between the counties or from the State to any other place away from the State, unless, in addition to any other requirements, such person records by physical inspection the vehicle identification number (VIN) of such vehicle and

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\*Edited accordingly.

## ACT 143

maintains a record of the transporting of the vehicle along with the description and vehicle identification number (VIN) for a period of not less than three years.

Records maintained as required above, and all other records and receipts relating to the exportation of vehicles shall be available for inspection by the Federal, State or County Police agencies during normal business hours."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

## ACT 143

H.B. NO. 808

A Bill for an Act Relating to Civil Service and Exemptions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

"**Sec. 76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personnel services performed for the State, except the following:

(1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;

(2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;

(3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;

(4) Positions filled by the legislature or by either house or any committee thereof;

(5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;

(6) Positions filled by popular vote;

(7) Department heads, officers and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;

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\*Edited accordingly.

(8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;

(9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant as defined in subparagraph (17);

(10) Assistant and deputy attorneys general and law clerks;

(11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;

(12) Employees engaged in special research or demonstration projects approved by the governor, for which projects federal funds are available [, provided the period of employment shall not exceed one year];

(13) Election inspectors, election clerks and other election employees;

(14) Positions filled by inmates, kokua, and patients of State institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Program, students, and positions filled through federally funded programs which provided temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;

(15) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;

(16) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

(17) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department, one additional deputy in the department of social services and housing; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; and an administrative assistant to the

superintendent of education;

(18) Positions specifically exempt from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;

(19) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;

(20) Household employees at the official residence of the president of the University of Hawaii.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

ACT 144

S.B. NO. 1074

A Bill for an Act Relating to the Uniform Probate Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 1-108 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 1-108 Facts by holder of general power.** For the purpose of granting consent or approval with regard to the acts or accounts of a personal representative or trustee, including relief from liability or penalty for failure to post bond, to register a trust, or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms, the sole holder or all co-holders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act for beneficiaries to the extent their interests (as objects, takers in default, or otherwise) are subject to the power. The trustee of an inter vivos trust shall not be required to register the trust, reveal the terms to beneficiaries, or account to beneficiaries, unless otherwise directed by the settlor; provided, however, the trustee shall only be relieved from the duty to register and to keep beneficiaries informed during the life of the settlor."

SECTION 2. Paragraph (a) of Section 1-401 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 1-401 Notice; method and time of giving.** (a) If notice is required and except for specific notice requirements as otherwise provided, the applicant or petitioner shall cause notice to be given to any interested person or his attorney if he has appeared by attorney or requested that notice be sent to his attorney.

Notice shall be given:

- (1) By mailing a copy thereof at least fourteen days before the time set for the hearing by first class mail, postage prepaid, addressed to the person being notified at the post office address given in his demand for notice, if any, or at his office or place of residence, if known; or
- (2) If the person notified pursuant to paragraph (1) above does not either appear at the time set for appearance or acknowledge receipt of the notice in writing, by personal service or delivery or any means by which the person entitled to notice receipts for a copy thereof, at least fourteen days before the time set for the hearing or the registrar's action; or
- (3) If notice cannot be effected pursuant to paragraphs (1) and (2) above, or if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for three consecutive weeks, a copy thereof in a newspaper having general circulation in the judicial circuit where the hearing is to be held or the probate proceedings are being maintained, the last publication of which is to be at least ten days before the time set for either the hearing or the registrar's action."

SECTION 3. Section 2-102 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 2-102 Share of the spouse.** The intestate share of the surviving spouse is:

- (1) If there is no surviving issue or parent of the decedent, the entire intestate estate;
- (2) If there is surviving issue or parent of the decedent, one-half of the intestate estate."

SECTION 4. Section 2-103 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 2-103 Share of heirs other than surviving spouse.** The part of the intestate estate not passing to the surviving spouse under section 2-102, or the entire intestate estate if there is no surviving spouse, passes as follows:

- (1) To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;
- (2) If there is no surviving issue, to his parent, or parents equally;
- (3) If there is no surviving issue or parent, to the issue of the parents or either of them; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;
- (4) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, the estate passes either in equal shares to the grandparents, or to the surviving grandparent, or in equal shares to the issue of equal degree of the grandparents if all grandparents are deceased, but no person shall be entitled by right of representation to the shares of the issue of the grandparents who have died; provided, that to the extent to which

the estate comes from either set of grandparents of the decedent, those grandparents or their issue shall take to the exclusion of the other set of grandparents or their issue regardless of the degree of kinship unless this provision would cause an escheat to the State;

- (5) If there is no surviving issue, parent, issue of a parent, grandparent or issue of a grandparent, the estate passes either in equal shares to the great-grandparents, or to the surviving great-grandparent, or in equal shares to the issue of equal degree of the great-grandparents if all great-grandparents are deceased, but no person shall be entitled by right of representation to the shares of the issue of the great-grandparents who have died; provided, that to the extent to which the estate comes from either set of great-grandparents of the decedent, those great-grandparents or their issue shall take to the exclusion of the other set of great-grandparents or their issue regardless of the degree of kinship unless this provision would cause an escheat to the State."

SECTION 5. Section 2-205 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 2-205 Proceeding for elective share and dower; time limit.** (a) The surviving spouse may elect to take his or her share in the net estate and her dower interest, if any, arising under section 533-1 by filing in the court and mailing or delivering to the personal representative a petition for the elective share and dower, if any, within nine months after the date of death, or within six months after the probate of the decedent's will, whichever limitation last expires. The court may extend the time for election as it sees fit for cause shown by the surviving spouse before the administration of the estate has been closed and the personal representative discharged. If the election has not been made before such closing and discharge, the spouse shall be conclusively presumed to have elected not to take his or her elective share and dower, if any.

(b) The surviving spouse shall give notice of the time and place set for hearing to persons interested in the estate.

(c) The surviving spouse may withdraw his or her demand for an elective share and dower, if any, at any time before entry of a final determination by the court.

(d) After notice and hearing, the court shall determine the amount of the elective share and dower, if any, and shall order its payment or distribution from the assets of the net estate in the case of the elective share and from such assets as may be subject thereto in the case of dower."

SECTION 6. Section 2-206 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 2-206 Effect of election on benefits by will or statute.** A surviving spouse is entitled to homestead allowance, exempt property and family allowance whether or not he elects to take an elective share and dower, if any, arising under section 533-1. A surviving spouse's election to take an elective share and dower, if any, precludes the surviving spouse from taking a testamentary bequest unless it plainly appears by the will to have been the intention of the testator that the surviving spouse should have the testamentary

bequest in addition to the elective share and dower, if any.”

SECTION 7. Section 2-207 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 2-207 Charging spouse with gifts received; liability of others for balance of elective share and dower.** (a) In the proceeding for an elective share and dower, if any, arising under section 533-1, property which is part of the net estate which passes to the surviving spouse by testate or intestate succession, or which would have so passed to the spouse but is renounced, is applied first to satisfy the elective share and dower, if any, and to reduce the amount due from the remaining estate.

(b) Remaining property of the net estate is so applied that liability for the balance of the elective share and dower, if any, of the surviving spouse is equitably apportioned among the recipients of the net estate in proportion to the value of their interests therein.”

SECTION 8. Section 2-403 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 2-403 Family allowance.** In addition to the right to homestead allowance and exempt property, if the decedent was domiciled in this State, the surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by him are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration, which allowance may not continue for longer than one year if the estate is inadequate to discharge allowed claims. The allowance may be paid as a lump sum or in periodic installments. It is payable to the surviving spouse, if living, for the use of the surviving spouse and minor and dependent children; otherwise to the children, or persons having their care and custody; but in case any minor child or dependent child is not living with the surviving spouse, the allowance may be made partially to the child or his guardian or other person having his care and custody, and partially to the spouse, as their needs may appear. The family allowance has priority as specified in section 3-805.

The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates his right to allowances not yet paid.”

SECTION 9. Section 2-404 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 2-404 Source, determination and documentation.** If the estate is otherwise sufficient, property specifically devised is not used to satisfy rights to homestead and exempt property. Subject to this restriction, the surviving spouse, the guardians of the minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make these selections if the surviving spouse, the children or the guardians of the minor children are unable or fail to do so within a reasonable time or if there are no guardians of the minor children. The personal representative may execute an instrument or deed of distribution to establish the

ownership of property taken as homestead allowance or exempt property. He may determine the family allowance in a lump sum not exceeding \$6,000 or periodic installments not exceeding \$500 per month for one year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which relief may provide a family allowance larger or smaller than that which the personal representative determined or could have determined."

SECTION 10. Section 2-508 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 2-508 Revocation by divorce; no revocation by other changes of circumstances.** If after executing a will the testator is divorced or his marriage annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, guardian of the property, or guardian of the person, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. Remarriage to a former spouse shall not receive any provision previously revoked by operation of this section. For purposes of this section, divorce or annulment means any divorce or annulment which would exclude the spouse as a surviving spouse within the meaning of section 2-802 (b). A decree of separation which does not terminate the status of husband and wife is not a divorce for purposes of this section. No changes of circumstances other than as described in this section revokes a will."

SECTION 11. Section 2-902 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 2-902 Duty of custodian of will; liability.** After the death of a testator, any person having custody of a will of the testator shall deliver it with reasonable promptness to a person able to secure its probate and if none is known, to an appropriate court. Any person who wilfully fails to deliver a will is liable to any person aggrieved for the damages which may be sustained by the failure. Any person who wilfully refuses or fails to deliver a will after being ordered by the court in a proceeding brought for the purpose of compelling delivery is subject to penalty for contempt of court."

SECTION 12. Section 3-108 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-108 Probate proceedings; ultimate time limit.** (a) No probate proceeding seeking to establish a will, other than an ancillary proceeding, may be commenced more than five years after the decedent's death except under the following conditions and circumstances:

- (1) If a previous probate proceeding was dismissed because of doubt about the fact of the decedent's death, a probate proceeding may be commenced at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous probate proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding; or
- (2) A probate proceeding may be commenced in relation to the estate of an absent, disappeared or missing person for whose estate a guardian of the property has been appointed, at any time within three years after the guardian of the property becomes able to establish the death of the protected person; or
- (3) A formal testacy proceeding or a supervised administration may be commenced by an adult on or before his nineteenth birthday if (i) he is a devisee of or an heir to property of the decedent under the proceedings which he intends to commence, (ii) he was under the age of majority when he had a meaningful opportunity to contest any prior probate proceeding concerning the decedent, and (iii) his interest was not adequately represented by another party having a substantially identical interest in any prior probate proceeding concerning the decedent; or
- (4) A formal testacy proceeding or a supervised administration may be commenced within twelve months after the petitioner learns of a prior probate proceeding in which an order of probate or an adjudication of intestacy was entered if the petitioner (i) is a devisee of or an heir to property of the decedent under the proceedings which he intends to commence, and (ii) did not receive notice pursuant to section 1-401 of the commencement of the prior probate proceeding, and if the petitioner's interest was not adequately represented by another party having a substantially identical interest in the prior probate proceeding.

(b) A probate proceeding seeking an adjudication of intestacy may be commenced at any time unless there has been a prior probate proceeding concerning the decedent's estate, in which event a formal testacy proceeding or a supervised administration seeking an adjudication of intestacy may be commenced only under the conditions and circumstances set forth in subparagraphs (a) (3) and (4) above.

(c) A prior probate proceeding determining heirs by intestacy shall not be res judicata as to any subsequent proceedings unless the notice provisions of section 1-401 are complied with as to the person asserting heirship.

(d) Unless additional time is permitted under paragraphs (a) and (b) above and except as provided in section 3-503, a proceeding to contest the determination of the testacy status of the decedent made in an informal proceeding must be commenced within the later of twelve months from the close of the informal proceedings or three years from the date of the decedent's death."

SECTION 13. Paragraph (a) of Section 3-203 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-203 Priority among persons seeking appointment as personal**

**representative.** (a) Whether the proceedings are formal or informal, persons who are qualified under section 3-601 have priority for appointment in the following order:

- (1) The person with priority as determined by a will including a person nominated by a power conferred in a will;
- (2) The surviving spouse of the decedent who is a devisee of the decedent;
- (3) Children of the decedent who are devisees;
- (4) Other devisees of the decedent;
- (5) The surviving spouse of the decedent;
- (6) Children of the decedent;
- (7) Other heirs of the decedent;
- (8) Forty-five days after the death of the decedent, any creditor;
- (9) The clerk of the court if none of the above are willing to so serve."

SECTION 14. Section 3-301 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-301 Testate informal probate and intestate informal appointment proceedings; limits on value of estate; contents of application; notice.** (a) Informal probate and appointment proceedings shall be available only if the estate of the decedent subject to probate proceedings in this State has a gross value of \$30,000 or less.

(b) Applications for informal probate or informal appointment shall be directed to the registrar, and shall be verified by the applicant to be accurate and complete to the best of his knowledge and belief as follows:

- (1) Every application for informal probate of a will and appointment of a personal representative or for informal appointment of a personal representative in the case of intestacy, other than a special or successor representative, shall contain the following:
  - (i) A statement of the interest of the applicant;
  - (ii) The name, and date of death of the decedent, his date of birth, and the county and state of his domicile at the time of death, and, so far as known or ascertainable with reasonable diligence by the applicant, the names and addresses of the spouse, children, heirs and devisees and the dates of birth of any who are minors;
  - (iii) If the decedent was not domiciled in the State at the time of his death, a statement showing venue;
  - (iv) A statement identifying and indicating the address and state in which appointed of any personal representative of the decedent whose appointment has not been terminated;
  - (v) A statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this State or elsewhere, and, as to any such demand the names and addresses of the demandants;
  - (vi) A statement indicating that the time limit for informal

- probate proceedings as provided in section 3-108 has not expired;
- (vii) A statement of the nature and value of the estate of the decedent subject to probate proceedings in this State;
  - (viii) A statement setting forth any request known to the applicant for homestead allowance, exempt property (in which case the specific items of property and their value shall be itemized) and family allowance under Article II, Part 4;
  - (ix) The name, address, and priority of appointment of the person whose appointment as personal representative is sought, a statement that the nominee is qualified to serve as such under section 3-601, and the names of any other persons having a prior or equal right to appointment under section 3-203; and
  - (x) If there are any persons listed under subparagraph (ix) above who have a prior or equal right to appointment, a statement in which they renounce their priority or concur in the nomination of the person seeking appointment.
- (2) An application for informal probate of a will and appointment of a personal representative shall state the following in addition to the statements required by (1):
- (i) That the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;
  - (ii) That the applicant, to the best of his knowledge, believes the will to have been validly executed;
  - (iii) That after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will; and
  - (iv) That the applicant believes that the instrument which is the subject of the application is the decedent's last will and is not one of a series of testamentary instruments, the latest of which does not expressly revoke the earlier.
- (3) An application for informal appointment of a personal representative in the case of intestacy shall state in addition to the statements required by (1) that, after exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this State under section 1-301, or, a statement why any such instrument of which he may be aware is not being probated.
- (4) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section 3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the application which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the nominee.

(c) Notice of the application shall be effected by delivering a copy of the application in any manner provided in section 1-401 to the persons enumerated in subparagraph (b) (1) (v) above and in section 3-403. Unless required under section 1-401, published notice of the commencement of the proceedings is not required. The application shall be accompanied by a statement to the effect that, if the recipient has an objection to the informal probate or to the granting of the requested statutory allowances or exempt property, he may file a petition for a formal testacy proceeding, and that, if any such petition is filed within fourteen days of the mailing or delivery of the notice, no action will be taken by the registrar on the informal application.

(d) Published notice, if any, of the application shall contain the following information:

- (1) Name and date of death of the decedent;
- (2) Name and address of nominee for personal representative;
- (3) Name and address of applicant;
- (4) Applicant's estimate of the value of the decedent's estate subject to probate proceedings in this State;
- (5) Total value of requests for homestead and family allowances and exempt property;
- (6) A statement to the effect that, if the noticed person has an objection to the informal probate or to the granting of the requested statutory allowances and exempt property, he may file a petition for a formal testacy proceeding within forty days after the date of first publication; and
- (7) A statement to the effect that, if the noticed person desires any further notice concerning the estate, including notice concerning the closing and distribution of the estate, he must file a demand for notice under section 3-204.

(e) By verifying an application, the applicant submits personally to the jurisdiction of the court in any proceeding for relief from fraud relating to the application, or for perjury, that may be instituted against him."

SECTION 15. Paragraph (a) of Section 3-302 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-302 Testate informal probate proceedings: duty of registrar; effect of informal probate and appointment.** (a) Upon receipt of an application requesting informal probate of a will, the registrar, upon making the findings required by section 3-303, shall issue a written statement admitting the will to informal probate, granting any request for statutory allowances and exempt property, and appointing a personal representative subject to acceptance if at least fourteen days have passed after the last mailing or other delivery of notice, if proof that notice has been given is filed with the registrar and if no petition for formal testacy proceedings has been filed; provided, however, if published notice is required by section 1-401 (a) (3), the registrar shall delay any action hereunder until the later of fourteen days after the last mailing or other delivery of notice or forty days after the first publication of notice."

SECTION 16. Paragraphs (a) and (b) of Section 3-303 of Section 1, Act

200, Session Laws of Hawaii 1976 are amended to read as follows:

**"Sec. 3-303 Testate informal probate proceedings; proof and findings required.** (a) In an informal proceeding for original probate of a will, the registrar shall determine whether:

- (1) The application is complete;
- (2) The application states that the value of the estate is \$30,000 or less;
- (3) The applicant has made oath or affirmation that the statements contained in the application are accurate and complete to the best of his knowledge and belief;
- (4) The applicant appears from the application to be an interested person as defined in section 1-201 (24);
- (5) Any requested statutory allowances or exempt property are proper;
- (6) The person nominated as personal representative has priority and is qualified to serve as such;
- (7) On the basis of the statements in the application venue is proper;
- (8) An original, duly executed and apparently unrevoked will or a certified copy of one probated elsewhere is in the registrar's possession;
- (9) Notice required by sections 3-204 and 3-301 has been given;
- (10) The application is not within section 3-304; and
- (11) It appears from the application that the time limit contained in section 3-108 either has not expired or, in the case of an ancillary proceeding, is not applicable.

(b) The application shall be denied if it indicates that a personal representative has been appointed in this or another judicial circuit of this State or, except as provided in subsection (d) below, if it appears that this or another will of the decedent has been the subject of a previous probate order."

SECTION 17. Paragraph (a) of Section 3-307 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-307 Intestate informal appointment proceedings; delay in order; duty of registrar; effect of appointment.** (a) Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in section 3-614, the registrar, after making the findings required by section 3-308, shall appoint the nominee subject to acceptance.

SECTION 18. Paragraph (a) of Section 3-308 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-308 Intestate informal appointment proceedings; proof and findings required.** (a) In an intestate informal appointment proceeding, the registrar shall determine whether:

- (1) The application is complete;
- (2) The value of the estate is \$30,000 or less;
- (3) The applicant has made oath or affirmation that the statements contained in the application are accurate and complete to the best of his knowledge and belief;
- (4) The applicant appears from the application to be an interested person

as defined in section 1-201 (24);

- (5) Any requested statutory allowances or exempt property are proper;
- (6) The person nominated as personal representative has priority and is qualified to serve as such;
- (7) On the basis of the statements in the application, venue is proper;
- (8) Notice required by sections 3-204 and 3-301 has been given; and
- (9) It appears from the application that the time limit contained in section 3-108 either has not expired or, in the case of ancillary proceedings, is not applicable."

SECTION 19. Paragraph (a) of Section 3-403 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-403 Formal testacy proceedings; notice of hearing on petition.** (a) Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice shall be given in the manner prescribed by section 1-401 by petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 3-204 of this chapter.

Notice shall be given to the following persons, so far as the same are known or are ascertainable with reasonable diligence: the surviving spouse, children, and other heirs of the decedent, the devisees and personal representatives named in any will that is being, or has been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown persons, and to all known persons whose addresses are unknown, who have any interest in the matters being litigated other than creditors and those having a claim against the estate."

SECTION 20. Section 3-502 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-502 Supervised administration; when required; petition; order.** A petition for supervised administration shall be filed for any estate subject to probate proceedings in this State if the gross value thereof is over \$30,000; provided however, if probate proceedings were commenced informally and the file is transferred pursuant to section 3-706(b), no new petition need be filed. A petition for supervised administration may be filed by any interested person or by a personal representative at any time or the prayer for supervised administration may be joined with a petition in a formal testacy or appointment proceeding, but if the estate qualifies for informal proceedings, the court may deny a petition for supervised administration filed by someone other than the personal representative for good cause. If the testacy of the decedent and the priority and qualification of any personal representative have not been adjudicated previously, the petition for supervised administration shall include the matters required of a petition in a formal testacy proceeding and the notice requirements and procedures applicable to a formal testacy proceeding apply. If not previously adjudicated, the court shall adjudicate the testacy of the decedent and questions relating to the priority and qualifications of the personal representative in any case involving a request for supervised administration even

though the request for supervised administration may be denied. After notice to the persons enumerated in section 3-403 in the manner provided in section 1-401 and proof that a copy of the petition has been delivered to all such persons in the manner provided in section 1-401, the court shall order supervised administration of a decedent's estate:

- (1) If the gross value of the estate subject to probate proceedings in this State is over \$30,000;
- (2) If the personal representative requests it;
- (3) If the decedent's will directs supervised administration, unless the court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration;
- (4) If the decedent's will directs unsupervised administration, only upon a finding that it is necessary for protection of persons interested in the estate; or
- (5) In other cases if the court finds that supervised administration is necessary under the circumstances."

SECTION 21. Paragraph (b) of Section 3-503 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

"(b) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by section 3-401. If supervised administration is commenced on account of the discovery of additional assets so that the decedent's gross estate in this State is in excess of \$30,000, any distributions made in good faith by the personal representative shall not be disturbed, but the remaining estate of the decedent shall be administered and distributed pursuant to court order, and the determinations of testacy status and successors of the decedent made by the registrar shall not be binding on the court with respect to such remaining estate of the decedent."

SECTION 22. Paragraph (b) Section 3-706 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

"(b) If the probate proceedings were commenced informally but the inventory and/or any appraisal reveal, or the personal representative otherwise learns prior to or after the close of the informal proceedings, that the gross value of the estate is in excess of \$30,000, the personal representative shall forthwith:

- (1) Commence a supervised proceeding by instructing the registrar to transfer the file to the court; and
- (2) Notify all persons enumerated in section 3-403 in the manner provided in section 1-401 of such transfer and the reason therefor; provided, however, no newspaper publication of the transfer shall be required."

SECTION 23. Section 3-707 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

"**Sec. 3-707 Use of appraisers.** The registrar or the court may appoint a qualified and disinterested appraiser for the purpose of ascertaining the fair market value as of the date of the decedent's death of any asset the value of which

appears to the registrar or the court to be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser shall be indicated on the appraisal with the item or items he appraised. The cost of the appraisal shall be borne by the estate. If any interested person disputes the valuation of an asset of the estate, whether set by appraisal ordered by the personal representative or the court or otherwise, the court shall determine the value after a hearing with notice pursuant to section 1-401 to all interested persons."

SECTION 24. Section 3-801 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-801 Notice to creditors; transfer of claims.** (a) Unless notice has already been given under this section, a person applying or petitioning for appointment of a personal representative shall publish a notice once a week for three successive weeks in a newspaper of general circulation in the judicial circuit in which the application or petition is filed announcing his application or petition, the name of the person nominated as personal representative, and notifying creditors of the estate to present their claims as provided in section 3-804 within four months after the date of the first publication of the notice or be forever barred. The notice may be combined with any published notice of the pendency of the probate proceedings.

(b) If the application or petition is denied, the nominee shall promptly deliver all claims to the person who is appointed. Failure to deliver shall render the nominee liable for any damages suffered by the claimants."

SECTION 25. Paragraph (c) of Section 3-803 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"(c) Nothing in this section affects or prevents:**

- (1) Any proceeding to enforce any mortgage, pledge, lien, or other secured interest upon property of the estate; or
- (2) To the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance, but any such proceeding must be commenced within the later of the time specified in paragraph (a) or (b) above, as appropriate, or two years of the occurrence of the event insured against."

SECTION 26. Paragraph (a) of Section 3-805 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-805 Classification of claims.** (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) Costs and expenses of administration;
- (2) Reasonable funeral expenses;
- (3) Up to \$6,000 of family allowance under sections 2-403 and 2-404;
- (4) Homestead allowance under section 2-401;
- (5) Exempt property under section 2-402;
- (6) Debts and taxes with preference under federal law;

- (7) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;
- (8) Debts and taxes with preference under other laws of this State;
- (9) All other claims."

SECTION 27. Paragraph (a) of Section 3-1001 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1001 Formal proceedings terminating administration; order of general protection.** (a) If an estate is being administered in a supervised proceeding, or if the personal representative in an informal proceeding so elects, or upon the petition of an interested person in an informal proceeding and a finding of good cause by the court:

- (1) A personal representative shall petition for an order of complete settlement of the estate within two years, or such additional time as the court in its discretion shall permit for good cause, following the original appointment of a general personal representative for the estate, and any interested person may so petition after one year from the original appointment of a general personal representative for the estate, except that no petition under this section may be maintained until the time for presenting claims which arose prior to the death of the decedent has expired;
- (2) The petition shall request the court to approve the final accounts, to construe any will or determine heirs if not previously determined by the court, to adjudicate the final settlement and distribution of the estate, to terminate the personal representative's appointment, and to discharge the personal representative from further claims;
- (3) After notice pursuant to section 1-401 to all interested persons and hearing and proof that a copy of the petition has been delivered to all interested persons pursuant to section 1-401, the court shall enter an order or orders, on appropriate conditions, approving the final accounts, determining the persons entitled to distribution of the estate, and directing or approving settlement and distribution of the estate, terminating the personal representative's appointment and discharging the personal representative from further claim or demand of any interested person upon proof of distribution in the manner ordered."

SECTION 28. Section 3-1003 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1003 Informal proceedings terminating administration; order of general protection.** (a) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative shall close an estate by filing with the registrar no later than one year, or such additional time as the registrar shall permit for good cause, following the original appointment of a general personal representative for the estate, a verified statement containing the following:

- (1) A statement that he, or a prior personal representative whom he has

succeeded, has or have published notice to creditors as provided by section 3-801;

- (2) A statement that he, or a prior personal representative whom he has succeeded, has or have fully administered the estate of the decedent by making payment, settlement or other disposition of all claims which were timely presented (except as specified in the statement), and all estate, inheritance and other death taxes. If any claims or taxes remain undischarged, the statement shall state whether the personal representative has or intends to distribute the estate subject to possible liability with the agreement of the distributees or it shall state in detail other arrangements which have been made to accommodate such outstanding liabilities;
- (3) An itemization of all income received and all expenses paid by the personal representative or a prior personal representative whom he has succeeded, and of all property of the estate remaining in the hands of the personal representative;
- (4) The names of all distributees of the estate and the property received or to be received by each; and
- (5) Proof that a copy of the statement has been delivered to all interested persons pursuant to section 1-401 (except that published notice shall not be required) together with a statement advising them that they have fourteen days from the date of mailing or service within which to object to the statement by filing a petition for a supervised closing.

(b) If any interested person timely objects to a closing statement by filing a petition for a supervised closing, proceedings pursuant to section 3-1001(a) above shall be maintained if the court finds good cause therefor. If no such petition or order is filed, the registrar without a hearing shall approve the closing statement, order the distribution specified therein, order the termination of the personal representative's appointment and discharge the personal representative from further claim or demand of any interested person upon proof of payment of taxes and distribution in the manner specified in the closing statement."

SECTION 29. Section 3-1201 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1201 Collection of personal property by affidavit.** Any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented a death certificate for the decedent and an affidavit made by or on behalf of the successor stating that:

- (1) The net value of the decedent's estate in this State does not exceed \$100;
- (2) No application or petition for the appointment of a personal representative is pending or has been granted in this State; and
- (3) The claiming successor is entitled to payment or delivery of the property and explaining the relationship of the claiming successor to

the decedent.”

SECTION 30. Section 3-1202 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 3-1202 Effect of affidavit.** The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to section 3-1201 is discharged and released to the same extent as if he dealt with a personal representative of the decedent. He is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.”

SECTION 31. Section 3-1205 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 3-1205 Estates of \$20,000 or less; clerk of court to administer.** If a person dies leaving property in this State of a total value not exceeding \$20,000, and a personal representative of the estate has not been appointed in the State, the clerk of the court of the judicial circuit in which the decedent was residing or domiciled at the time of his death or left property may, upon the verified petition of the clerk or of any interested person, obtain an order authorizing him to administer the estate, and, as the personal representative, he shall collect and receive the property and administer the same. The order may be made without notice or hearing, at the discretion of the court. Except as otherwise specifically required or authorized by law or where he may be interested as an heir, or devisee, no clerk of any court shall act as personal representative of any estate where the value of the same is in excess of \$20,000. No fees shall be allowed the clerk, except as set forth in section 3-1211.”

SECTION 32. Section 3-1206 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 3-1206 Publication by clerk of appointment as personal representative; notice to creditors, heirs, etc.** (a) If the estate has a total value of \$10,000 or less, upon such appointment the clerk shall publish the fact by posting a notice thereof at the front entrance of the court house of the judicial circuit and by advertising the notice in the English language at least once in a newspaper of general circulation in the judicial circuit, the notice to state briefly that all creditors of the deceased must file with the clerk duly verified claims within sixty days from the date of publication, and that all persons claiming to be heirs of the estate are requested to file with the clerk notice of such claims within the period. The court may direct that the advertising of the notice in a newspaper need not be made if it deems the same unnecessary.

(b) If the estate has a total value in excess of \$10,000, the content and method of giving notice, both of the pendency of the action and of all other acts

for which notice is required, shall be as provided for informal probates in article III, part 3."

SECTION 33. Section 3-1207 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1207 Presentation of claims of creditors.** All creditors of the decedent shall present their claims, duly verified under oath, to the clerk within the time specified in the notice."

SECTION 34. Section 3-1208 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1208 Claims barred when.** All claims of creditors not filed within the prescribed period from the date of the first publication are forever barred."

SECTION 35. Section 3-1209 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1209 Duties of clerk and distribution.** The clerk shall make diligent effort to ascertain the names and whereabouts of the heirs, or the whereabouts of the devisees of the decedent and present evidence relating thereto to the court having jurisdiction of the proceedings. After the expiration of sixty days after the first publication, the clerk shall pay or distribute the money, funds, or property of the estate in the order specified in section 3-805, including any allowances and exempt property under Part 4 of Article II authorized by the court, and the excess, if any, to or among such persons as may be found by the court to be the persons entitled thereto as distributees."

SECTION 36. Section 3-1210 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1210 Undistributed proceeds or balances, disposition.** When any balance remains in the hands of the clerk, after payment in the order specified in section 3-805, and no heirs or devisees of the decedent, entitled to the balance, can be located after reasonable search and inquiry, the clerk, after the expiration of one year after the first publication, shall report the fact to the court, which shall forthwith enter an order forwarding such property to the state director of finance, and the clerk thereupon shall immediately deposit the money or funds, or any balance, with the director for disposition as provided in chapter 523. The director at any time may authorize the payment out of the general funds of the State of any amount so forwarded to any person who establishes to the satisfaction of the director that he is legally entitled thereto as an heir or devisee of the decedent, and the person shall be entitled to receive the amount thereof out of any moneys in the treasury not otherwise appropriated, upon warrant drawn by the state comptroller."

SECTION 37. Section 3-1211 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 3-1211 Exemption from costs.** All proceedings had under and by virtue of this part 12, shall be free from all costs of court, except that the clerk may charge the actual expenses for advertising the notice specified in section 3-1206, the advertising, posting, or service fees required in carrying out any order

of the court, including orders relating to the sale of real or personal property, and any expenses reasonably necessary for the preservation, disposal, distribution, and administration of the estate, together with a fee of three per cent of the market value of the first \$10,000 in the gross estate, the fee to be paid into the treasury of the State as a government realization from any available assets of the estate; provided, that if the administration is completed by another personal representative on account of the size of the estate or for any other reason, no fee shall be charged by the clerk.

SECTION 38. A new section designated as Section 4-207 and reading as follows is added to Section 1, Act 200, Session Laws of Hawaii 1976:

**"Sec. 4-207 Ancillary administrations; provisions governing.** In respect to a non-resident decedent, the provisions of Article III of this chapter govern (1) informal or formal proceedings, if any, in this State for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and (2) the status, powers, duties and liabilities of claimants, purchasers, distributees and others in regard to a local administration; provided, however, a spouse, parent or child of a non-resident decedent who is otherwise qualified to serve as a personal representative in this State shall not be disqualified by reason of non-residency to serve as a local personal representative in ancillary formal or informal proceedings."

SECTION 39. Section 5-102 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 5-102 Jurisdiction of subject matter; consolidation of proceedings.** The court has jurisdiction over protective proceedings and the family court has jurisdiction over guardianship proceedings. Where protective and guardianship proceedings relating to the same person have been initiated, they may be consolidated in the court or in the family court as the court and the family court in the exercise of their discretion shall determine."

SECTION 40. A new section designated as Section 5-105 and reading as follows is added to Section 1, Act 200, Session Laws of Hawaii 1976:

**"Sec. 5-105 Compensation of guardian ad litem, etc.** Persons appointed by the family court to serve as guardians ad litem or to perform such other duties as may be requested by the family court in guardianship and protective proceedings shall be compensated in such amounts, if any, as the family court deems appropriate and reasonable. Any such compensation shall be paid from such source under the jurisdiction of the family court as it shall order."

SECTION 41. Section 5-204 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 5-204 Court appointment of guardian of the person of minor; conditions for appointment; letters; priority of testamentary nominee.** The family court may appoint a resident of this State or a nonresident nominated by the will of a parent as a guardian of the person for an unmarried minor. The appointment shall be evidenced by letters of guardianship. Such guardian may be nominated by the will of the minor's parent, and the family court shall give

preference to any such nominee. The family court may appoint someone other than the testamentary nominee upon a showing of cause."

SECTION 42. Section 5-207 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 5-207 Court appointment of guardian of the person of minor; procedure.** (a) Notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor is to be given by the petitioner in the manner prescribed by section 1-401 to:

- (1) The minor, if he is fourteen or more years of age;
- (2) The person who has had the principal care and custody of the minor during the sixty days preceding the filing of the petition;
- (3) Any living legal parent and grandparent of the minor; and
- (4) Any guardian of the minor's property.

(b) Upon hearing, if the family court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 5-204 have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases the family court may dismiss the proceedings, or make any other disposition of the matter that will best serve the interests of the minor.

(c) If necessary, the family court may appoint a temporary guardian of the person, with the status of an ordinary guardian of the person of a minor, but the authority of such temporary guardian shall not last longer than ninety days.

(d) If, at any time in the proceeding, the family court determines that the interests of the minor are or may be inadequately represented, it shall appoint a guardian ad litem to represent the minor, giving consideration to the preference of the minor if the minor is fourteen or more years of age."

SECTION 43. Paragraph (b) of Section 5-303 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

"(b) Upon the filing of a petition, the family court shall set a date for hearing on the issues of incapacity and, if at any time in the proceeding, the court determines that the interests of the allegedly incapacitated person are or may be inadequately represented, it shall appoint a guardian ad litem. The person alleged to be incapacitated may be examined by a physician appointed by the family court who shall submit his report in writing to the court and may be interviewed by a family court officer or other person designated by the family court. If so ordered by the family court, the family court officer or other person also shall interview the person seeking appointment as guardian of the person, shall visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that he will be detained or reside if the requested appointment is made, and shall submit his report in writing to the family court. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see or hear all evidence bearing upon his condition. He is entitled to be represented by an attorney, to present evidence, to cross-examine witnesses, including any person submitting a report and the family court officer or other person designated by the court to interview him. The issue may be

determined at a closed hearing.”

SECTION 44. Section 5-304 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 5-304 Finding; order of appointment.** The family court may appoint a resident of this State or a nonresident nominated by the will of a parent as a guardian of the person as requested if it is satisfied that the person for whom a guardian is sought is incapacitated and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the person of the incapacitated person. The order of appointment may limit or otherwise modify the power of the guardian of the person or may specify areas in which the ward shall retain the power to make and carry out decisions concerning his person. Alternatively, the family court may dismiss the proceeding or enter any other appropriate order.”

SECTION 45. Section 5-401 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“Sec. 5-401 Protective proceedings.** Upon petition and after notice and hearing in accordance with this Part, the court may appoint a resident of this State or a trust company organized under the laws of this State or a nonresident nominated by the will of a parent as a guardian of the property or make other protective order for cause as follows:

- (1) Appointment of a guardian of the property or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection which cannot otherwise be provided, has or may have business affairs which may be jeopardized or prevented by his minority, or that funds are needed for his support and education and that protection is necessary or desirable to obtain or provide funds.
- (2) Appointment of a guardian of the property or other protective order may be made in relation to the estate and affairs of a person if the court determines that (i) the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance or other incapacity; and (ii) the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds.”

SECTION 46. Paragraph (b) of Section 5-404 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**“(b)** The petition shall set forth to the extent known, the interest of the petitioner; the name, age, residence and address of the person to be protected; the name and address of his guardian of the person, if any; the name and address of his nearest adult relative known to the petitioner; a general statement of his property with an estimate of the value thereof, including any compensation,

insurance, pension or allowance to which he is entitled; and the reason why appointment of a guardian of the property or other protective order is necessary. If the appointment of a guardian of the property is requested, the petition also shall set forth the name and address of the person whose appointment is sought and the basis of his priority for appointment."

SECTION 47. Section 5-405 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 5-405 Notice in protective proceedings.** In a proceeding for the appointment or removal of a guardian of the property or other protective order, notice of the time and place of hearing must be given to the persons, including a guardian of the person, and in the manner specified in section 5-309, and to any person who has filed a request for notice under section 5-406."

SECTION 48. Paragraph (b) of Section 5-407 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"(b)** Upon receipt of a petition for appointment of a guardian of the property or other protective order for reasons other than minority, the court shall set a date for hearing on the matters alleged in the petition. Unless the person to be protected has competent counsel of his own choice, the court shall appoint an appropriate official or attorney to represent him, who shall have the powers and duties of a guardian ad litem. If the alleged disability is mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician designated by the court, preferably a physician who is not connected with any institution in which the person is a patient or is detained. The court may appoint a court officer or other person to interview the person to be protected and the person seeking appointment. The person so appointed shall submit his report in writing to the court."

SECTION 49. Section 5-501 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 5-501 When power of attorney not affected by disability.** Whenever a principal designates another his attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding his disability, the authority of the attorney in fact or agent is exercisable by him as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law. All acts done by the attorney in fact or agent during the life of the principal pursuant to the power during any period of disability or incompetence have the same effect and inure to the benefit of and bind the principal or his heirs, devisees and personal representative as if the principal were alive, competent and not disabled. If a guardian of the person or of the property thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian of the property rather than the principal. The guardian of the property has the

same power the principal would have had if he were not disabled or incompetent to revoke, suspend, or terminate all or any part of the power of attorney or agency."

SECTION 50. Paragraph (a) of Section 5-502 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 5-502 Other powers of attorney revoked upon death or disability. (a)** The death, or, except as provided in section 5-501, the disability or incompetence of any principal who has executed a power of attorney revokes or terminates the power whether or not the attorney in fact has actual knowledge of the death, disability or incompetence of the principal."

SECTION 51. Section 6-107 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 6-107 Rights against multiple-party accounts.** A transfer to a survivor of a multiple-party account can be set aside, to the extent described below, in the event the assets in the hands of the personal representative of the deceased party are insufficient to pay taxes, expenses of administration, and homestead and family allowances under sections 2-401 and 2-403. A surviving party, P.O.D. payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party may, on application of the personal representative of the deceased party's estate, the surviving spouse of the deceased party, or one acting for a dependent or minor child of the deceased party, be required to account to said personal representative for the deceased party's net contribution to the account to the extent necessary to discharge the insufficiency described above. No proceeding to assert this right shall be commenced later than two years following the death of the deceased party. Sums recovered hereunder shall be administered as part of the decedent's estate. This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof, or make it liable to the estate of a deceased party unless before payment either the institution has been served with process in a proceeding by the personal representative or the institution has actual knowledge that making payment will jeopardize the payment of the taxes, expenses and allowances above mentioned."

SECTION 52. Section 6-113 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 6-113 Financial institution protection; set-off.** Without qualifying any other statutory right to set-off or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution, the financial institution has a right to set-off against the account in which the party has or had immediately before his death a present right of withdrawal. The amount of the account subject to set-off is the deceased party's net contribution to the account, and in the absence of proof of net contributions, to an equal share with all parties having present rights of withdrawal."

SECTION 53. Section 7-101 of Section 1, Act 200, Session Laws of Hawaii 1976 is amended to read as follows:

**"Sec. 7-101 Duty to register trusts.** The trustee of a trust having its principal

place of administration in this State who is required to register the trust under section 1-108 shall register the trust in the court in the judicial circuit either of the principal place of administration of the trust, or, in the case of a trust relating only to land, of the place where the land is located. Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if he has no such place of business. In the case of co-trustees, the principal place of administration, if not otherwise designated in the trust instrument, is (1) the usual place of business of the corporate trustee if there is but one corporate co-trustee, or (2) the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate co-trustee, and otherwise (3) the usual place of business or residence of any of the co-trustees as agreed upon by them. The duty to register under this Part does not apply to the trustee of a trust if registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release."

SECTION 54. Sections 533-14 and 533-15, Hawaii Revised Statutes, are repealed.

SECTION 55. Section 551-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 551-22 Estates less than \$100.** When the whole estate of a person over the age of eighteen for whom a guardian of the property could be appointed does not exceed the value of \$100, the court may, in its discretion, without the appointment of a guardian or the giving of bond, authorize the deposit thereof in a depository authorized to receive fiduciary funds in the name of a suitable person designated by the court, or if the assets do not consist of money, authorize the delivery thereof to a suitable person designated by the court. The person receiving such money or other assets shall hold and dispose of the same in such manner as the court shall direct."

SECTION 56. Section 501-171, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 501-171 Registration upon transfer by descent and devise.** When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the person or persons entitled thereto may file with the assistant registrar of the land court the duplicate certificate issued to the testator, a correct statement of the full names of the devisees, the residence and post office address of each and their marital status, a certified copy of the will, either a certified copy of the order of the circuit court admitting it to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of an order of the circuit court determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the testator, and issue a new duplicate certificate or certificates to the devisee or devisees. When the owner of registered land or of any estate or interest therein dies, not having devised the same, the persons

entitled thereto by law may file with the assistant registrar the duplicate certificate issued to the intestate, a correct statement of the full names of the heirs, the residence and post office address of each, and their marital status, a certified copy of the judgment of the circuit court in an action determining the heirs, or a certified copy of an order of the circuit court in probate proceedings determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the intestate, and issue a new duplicate certificate or certificates to the heir or heirs entitled thereto.

Instruments which must be registered. No voluntary instrument or deed of a personal representative, assignee for the benefit of creditors, sheriff, master, commissioner, or other officer purporting to transfer or create a lien or charge upon any estate or interest of any devisee or heir in registered land or to authorize the same to be done, shall have any effect to accomplish that purpose until the title of the heir or devisee is registered as herein provided. An involuntary lien, charge or *lis pendens* against the interest of a relict, heir, or devisee in the lands of the deceased registered owner, prior to the registration of the title of such relict, heir or devisee, only can be obtained by filing the proper papers with the assistant registrar as in other cases, and the assistant registrar making entry thereof as a memorial on the registered certificate of title of the deceased owner, giving the name, residence, and post office address of the relict, heir, or devisee against whom the lien, charge, or *lis pendens* is to operate."

SECTION 57. Section 501-172, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 501-172 License to sell or mortgage, not affected.** Nothing in this chapter shall in any way affect or impair the jurisdiction of a circuit court to license a guardian, to sell, mortgage, or convey registered land for any purpose for which a license may be granted in the case of unregistered land. The purchaser or mortgagee taking a deed executed in pursuance of a license is entitled to a new certificate of title, or memorandum of registration, on presenting his deed to the assistant registrar."

SECTION 58. Section 501-173, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 501-173 Purchaser acquiring title through personal representative may have the same registered.** If any personal representative is authorized by the terms of any will to grant, bargain, sell, convey, mortgage, or otherwise deal with registered land, he may do so in the same manner as if the land were registered in his name as personal representative. Before any instrument executed by the personal representative, pursuant to such authority, is filed with the assistant registrar of the land court, there shall be first filed with the assistant registrar a certified copy of the will together with a certified copy of the order of the circuit court admitting the same to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of the letters, on which shall be listed all orders of the circuit court relating to the personal representative's authority to grant, bargain, sell, convey,

mortgage, lease or otherwise deal with real property, and a certified copy of each such order. Any person who acquired title or any interest in registered land through or by virtue of the execution of the power vested in the personal representative may have the title or interest registered."

SECTION 59. Chapter 522, Hawaii Revised Statutes, is repealed.

SECTION 60. Section 531-33, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 531-33 Procedure to dispose of unclaimed personalty.** Whenever the personal representative of an estate is unable to discover any living heirs or legatees of his decedent, he shall give notice to all heirs or legatees by publication in such newspaper or newspapers and for such time as the court or registrar may direct, but not less than once a week for three successive weeks, of the date of the hearing upon his final accounts or the date on which his closing statement will be approved if no objection is filed, which notice shall direct all claimants of a distributive share in the estate of his decedent to appear and present their claims at the hearing or in writing prior to the date on which the closing statement will be approved if no objection is filed; provided, that the time allowed for presentation of claims shall be not less than ninety days after the first publication of the notice.

If no claims are presented within the prescribed time, or if such claims as may be allowed do not exhaust the personalty of the estate, any personal estate remaining after the settlement and approval of the final accounts of the personal representative, and the payment of such distributive shares as may be allowed by the court or registrar be transferred to the state director of finance by the personal representative.

The director shall cause to be sold at public auction all such personalty as is transferred to him, except cash or bonds of the State.

The personal estate shall be disposed of as provided in chapter 523."

SECTION 61. Section 535-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 535-1 Specific performance of decedent's contracts to convey real estate.** When any person, who is bound by a contract in writing to convey any real estate, dies before making the conveyance, the other party may commence an action in a circuit court to enforce a specific performance of the contract, the action to be commenced within one year after the grant of administration."

SECTION 62. Sections 535-2, 535-3, 535-4, 535-6 and 535-7, Hawaii Revised Statutes, are repealed.

SECTION 63. Section 656-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 656-1 Certain contracts, when actionable.** No action shall be brought and maintained in any of the following cases:

- (1) To charge an executor or administrator, upon any special promise to answer for damages out of his own estate;
- (2) To charge any person upon any special promise to answer for the debt, default, or misdoings of another;

- (3) To charge any person, upon an agreement made in consideration of marriage;
- (4) Upon any contract for the sale of lands, tenements, or hereditaments, or of any interest in or concerning them;
- (5) Upon any agreement that is not to be performed within one year from the making thereof;
- (6) To charge any person upon any agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or commission;
- (7) To charge the estate of any deceased person upon any agreement which by its terms is not to be performed during the lifetime of the promisor, or, in the case of agreements made prior to July 1, 1977, of an agreement to devise or bequeath any property, or to make any provision for any person by will;

Unless the promise, contract, or agreement, upon which the action is brought, or some memorandum or note thereof, is in writing, and is signed by the party to be charged therewith, or by some person thereunto by him in writing lawfully authorized."

SECTION 64. This Act shall take effect on July 1, 1977.†

(Approved June 1, 1977.)

ACT 145

H.B. NO. 674

A Bill for an Act Relating to Forest and Water Reserve Zones.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is desirable to continue to give notice by mail in addition to notice by publication to all landowners who will be affected by an application for boundary changes in forest and water reserve zones. However the legislature finds that with regard to the proposed revision of Regulation Number 4 as herein more particularly described, because said comprehensive revision affects all property owners within the conservation district the notice requirement of mailing is an onerous burden and the legislature finds that for the proposed revision of Regulation Number 4 the public notice requirement is satisfied by publication alone.

It is the purpose of this Act to limit this exemption from the requirement of mailing notice to the proposed revision of Regulation Number 4 but to have the mailing requirement continue to apply in all other instances.

SECTION 2. Section 183-41, Hawaii Revised Statutes, is amended to read:

**"Sec. 183-41 Forest and water reserve zones.** (a) There are hereby established forest and water reserve zones in each of the counties. These zones shall initially encompass all of those areas in the various counties, either government or privately owned, contained within the forest reserve boundaries

†Edited in manner of other Acts.

as established on January 21, 1957. No use, except a nonconforming use as defined in subsection (b), shall be made of such areas unless such use is in accord with a zoning regulation adopted pursuant to subsection (c)(3) or unless such use is allowed under a temporary variance granted by the department of land and natural resources; provided, that any owner of land within the forest reserve boundaries who shall desire to establish a use or uses for his land, or a greater or different use or uses, if his land is classed as nonconforming shall make application in accordance with subsection (d), and if within one hundred eighty days after receipt of the application the department shall fail to give notice, hold a hearing, and render a decision consistent with the standards set forth in subsection (c)(1) the owner may automatically put his land to the use or uses requested in his application.

(b) Neither this part nor any regulation enacted under this part shall prohibit the continuance of the lawful use of any building, premises or land for any trade, industrial, residential, or other purposes for which the building, premises or land is used on July 1, 1957, or at the time any regulation adopted under authority of this part takes effect. All such existing uses shall be nonconforming uses. Any parcel of land of not more than ten acres in area contained within the boundaries of the forest reserve which, as of January 31, 1957, was subject to real property taxes and upon which the taxes were being paid, and which was held and intended for residential or farming use, whether actually put to such use or not, shall also be considered as nonconforming and capable of such use.

(c) To effectuate the provisions of this section, the department of land and natural resources shall have the following powers and duties, in addition to all other powers and duties:

- (1) General powers. The department shall, after notice and hearing as herein provided, review and redefine the boundaries of forest and water reserve zones as established by or under the authority of this part. The department may allow temporary variances from zoned use where good cause is shown and where the proposed variance is for a use determined by the department to be in accordance with good conservation practices. The department may establish subzones within the forest and water reserve zones, which subzones shall be restricted to certain uses. In establishing permitted uses in the subzones, the department shall give full consideration to all available data as to soil classification and physical use capabilities of the land so as to allow and encourage the highest economic use thereof consonant with requirements for the conservation and maintenance of the purity of the water supplies arising in or running or percolating through the land. The department shall also give full consideration to the preservation of open spaces or areas, as defined in section 201-2(7), so as to maintain, improve, protect, limit the future use of, or otherwise conserve open spaces and areas for public use and enjoyment. Provided, the board shall hold a public hearing in every case involving the proposed use of land in a conservation zone for commercial purposes, at which hearing interested persons shall be afforded a reasonable opportunity to be heard. Notice of the time and place of the hearing shall be published in accord-

ance with the public notice requirements of subsection (d). As used herein, the term "commercial purposes" shall not include the use of land for utility purposes.

- (2) Review of zones established by this part. The department, as soon as feasible after July 1, 1957, shall undertake to review the boundaries of all forest and water reserve zones within each county with the view of making necessary corrections and establishing subzones within the zones, and fixing permissible uses therein. The department shall, after review, prepare a proposed set of regulations, complete with necessary maps, establishing zone and subzone boundaries, and designating permitted uses therein. These proposed regulations and necessary maps shall be made available for inspection by interested members of the public. After notice and hearings as provided in subsection (d), the department may adopt such regulations as proposed or as amended. When adopted and after promulgated as required by law, the regulations shall have the force and effect of law.
- (3) Scope of zoning regulations. The department shall, after notice and hearing as provided herein, adopt such regulations governing the use of land within the boundaries of the forest and water reserve zones as will not be detrimental to the conservation of necessary forest growth and the conservation and development of water resources adequate for present and future needs and the conservation and preservation of open space areas for public use and enjoyment.

The department by means of the regulations may establish subzones within any forest and water reserve zone and specify the land uses permitted therein which may include, but are not limited to, farming, flower gardening, operation of nurseries or orchards, growth of commercial timber, grazing, recreational or hunting pursuits, or residential use. The regulations may also control the extent, manner, and times of the permitted uses, and may specifically prohibit unlimited cutting of forest growth, soil mining, or other activities detrimental to good conservation practices.

The term "land", whenever used herein, shall mean and include any estate or interest therein, and the term "owner of land" or "landowner", including any reference thereto, shall mean an owner of land, or of any estate or interest therein.

- (d) Notice, hearings. Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries or permitted uses of any subzone, or to establish a subzone with certain permitted uses, or where the department proposes to make the change or changes itself, the change or changes shall be put in the form of a proposed regulation by the applicant and the department shall then give notice by publication at least once in a newspaper of general circulation in the State and in the county in which the property is located and by mail to all landowners whose property is directly affected by any proposed change. The notice shall be given not less than twenty days prior to the date set for hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed regulation and

the necessary maps shall be made available for inspection by interested members of the public. The hearing shall be a full hearing before the board, shall be held in the county in which the land is located, and may not be delegated to an agent or representative of the board as may otherwise be provided by law. For the purpose of its public hearing or hearings, the department shall have power to summon witnesses, administer oaths, and require the giving of testimony.

(e) Enforcement. The department shall prescribe such administrative procedures and provide such personnel as it may deem necessary for the enforcement of this section, and any zoning regulation enacted in accordance therewith. Such regulations may be enforced by court order at the suit of the department or of the owner or owners of real estate directly affected by the regulation. Any person violating this section or any regulation adopted in accordance with this section shall be fined no more than \$500."

SECTION 3. Notwithstanding any of the provisions of subsection 2(d) section 183-41, Hawaii Revised Statutes, to the contrary the requirement of notice by mail under said subsection 2(d) shall not apply to the first proposed amendment, after the effective date of this Act, of that certain regulation entitled "REGULATION NO. 4, A REGULATION OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAII, PROVIDING FOR LAND USE REGULATIONS WITHIN CONSERVATION DISTRICTS PURSUANT TO SECTION 19-70, REVISED LAWS OF HAWAII 1955, AS AMENDED, PROVIDING FOR ZONES, SUBZONES, PERMITTED USES, APPEALS, ENFORCEMENT AND PENALTY" adopted by the Board of Land and Natural Resources on September 18, 1964, provided that all other requirements of said subsection 2(d) shall apply thereto.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

ACT 146

H.B. NO. 730

A Bill for an Act Relating to Appeals by the State of Hawaii in Criminal Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 641-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 641-13 By State in criminal cases.** An appeal may be taken by and on behalf of the State from the district or circuit courts direct to the supreme court in all criminal cases, in the following instances:

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\*Edited accordingly.

- (1) From an order of judgment quashing, setting aside, or sustaining a motion to dismiss, any indictment or information or any count thereof;
- (2) From an order or judgment, sustaining a special plea in bar, or dismissing the case where the defendant has not been put in jeopardy;
- (3) From an order granting a new trial;
- (4) From an order arresting judgment;
- (5) From a ruling on a question of law adverse to the State where the defendant was convicted and appeals from the judgment;
- (6) From the sentence, on the ground that it is illegal;
- (7) From a pre-trial order granting a motion for the suppression of evidence, including a confession or admission, or the return of property in which case the supreme court shall give priority to such an appeal and the order shall be stayed pending the outcome of the appeal;
- (8) From an order denying a request by the State for a protective order for nondisclosure of witness for their personal safety under Rule 16(e) (4) of the Hawaii Rules of Penal Procedure, in which case the Supreme Court shall give priority to such appeal and the order shall be stayed pending outcome of such appeal;

provided that no appeal shall be taken by or allowed the State in any case where there has been a verdict in favor of the defendant."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

**ACT 147**

**H.B. NO. 778**

**A Bill for an Act to Amend Section 188-25(e) Hawaii Revised Statutes, Relating to Spear Fishing.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-25, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) It shall be unlawful for any person to take any fish by the use of spears or have in his possession any speared fish, which is smaller than the minimum size for the fish as specified in section 188-40 and any person violating this provision for the first time shall receive a citation; provided that any fine or imprisonment under the preceding subsection shall be waived. Any subsequent violation shall be punished as provided in the preceding subsection."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Employment Security.

SECTION 1. Section 383-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-2 Definition of employment.** (a) As used in this chapter, unless the context clearly requires otherwise, "employment", subject to sections 383-3 to 383-9, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(b) "Employment" includes, but is not limited to, any service performed prior to January 1, 1978, which was employment as defined in this section prior to such date and, subject to the other provisions of this section, service performed after December 31, 1977, by an employee as defined in section 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce.

(c) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands as provided in paragraph (5) of this subsection), after December 31, 1971 in the employ of an American employer or of this State or of any of its instrumentalities or of any of its political subdivisions (other than service which is deemed employment under the provisions of section 383-3 or the parallel provisions of another state's law) if:

- (1) The employer's principal place of business in the United States is located in this State; or
- (2) The employer has no place of business in the United States, but
  - (A) The employer is an individual who is a resident of this State; or
  - (B) The employer is a corporation which is organized under the laws of this State; or
  - (C) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any one other state; or
- (3) None of the criteria of paragraphs (1) and (2) of this subsection is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service under the law of this State.
- (4) An "American employer", for purposes of this subsection, means a person who is:
  - (A) An individual who is a resident of the United States; or
  - (B) A partnership if two-thirds or more of the partners are residents of the United States; or
  - (C) A trust, if all of the trustees are residents of the United States; or
  - (D) A corporation organized under the laws of the United States or of any state.
- (5) As used in this subsection, the term "United States" includes the states, the District of Columbia, and the Commonwealth of Puerto Rico; and,

after December 31 of the year in which the Secretary of Labor approves for the first time an unemployment insurance law of the Virgin Islands submitted to him for approval, the term "United States" shall also include the Virgin Islands.

(d) The term "employment" shall include an individual's service, wherever performed within the United States, the Virgin Islands or Canada, if (a) such service is not covered under the unemployment compensation law of any other state, the Virgin Islands, or Canada, and (b) the place from which the service is directed or controlled is in this State.

(e) "Employment" includes service performed by an individual in agricultural labor as defined in section 383-9 except for service excluded under paragraph (1) of section 383-7.

- (1) For the purposes of this section any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:
  - (A) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and
  - (B) If such employee is not an employee of such other person within the meaning of subsection (b) of this section.
- (2) For the purpose of this subsection, in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1) above:
  - (A) Such other person and not the crew leader shall be treated as the employer of such individual; and
  - (B) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.
- (3) For the purposes of this subsection, the term "crew leader" means an individual who:
  - (A) Furnishes individuals to perform service in agricultural labor for any other person;
  - (B) Pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them; and
  - (C) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person."

SECTION 2. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-7 Excluded service.** "Employment" does not include the following service:

- (1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit:
  - (A) Which, during each calendar quarter in both the current and the preceding calendar years, paid less than \$20,000 in cash remuneration to individuals employed in agricultural labor; and
  - (B) Which had, in each of the current and the preceding calendar years:
    - (i) No more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees; or
    - (ii) No more than nine individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week;
- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority performed in any calendar quarter by an individual if the cash remuneration paid to such individual by an employing unit for such service is less than \$225, and if the total cash remuneration paid to all individuals by an employing unit for such service is less than \$1,000 in each calendar quarter in both the current and preceding calendar years;
- (3) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purpose of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs such service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employing unit in the performance of such service during the preceding calendar quarter;
- (4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
  - (B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (i) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (ii) the service performed in connection with a vessel of ten net tons or less (determined in

the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year, and (iii) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;

- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
- (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided that if this State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;
- (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
- (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
- (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of such Code), if (i) the remuneration for such service is less than \$50, or (ii) the service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
- (B) Service performed in the employ of a school, college, or university,

- if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;
- (10) Service performed in the employ of a foreign government (including service as a consular or other officer or employee of a nondiplomatic representative);
  - (11) Service performed in the employ of an instrumentality wholly owned by a foreign government:
    - (A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
    - (B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
  - (12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-years' course in a medical school chartered or approved pursuant to state law;
  - (13) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
  - (14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
  - (15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;
  - (16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation.
  - (17) Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission.

None of the foregoing exclusions (1) to (17) shall apply to any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a

state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter."

SECTION 3. Section 383-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-9 Agricultural labor.** "Agricultural labor" includes all service performed prior to January 1, 1972, which was agricultural labor as defined in this section prior to such date, and remunerated service performed after December 31, 1971:

- (1) On a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;
- (2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;
- (3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;
- (4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;
- (B) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (A), but only if such operators produced more than one-half of the commodity with respect to which such service is performed;
- (C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or
- (5) On a farm operated for profit if such service is not in the course of the employer's trade or business.

As used in this section, "farm" includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges,

greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.”

SECTION 4. Section 383-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of an individual whose benefit year begins on or after January 2, 1966, his weekly benefit amount shall be, except as otherwise provided herein, an amount equal to one twenty-fifth of his total wages for insured work paid during the calendar quarter of his base period in which such total wages were highest. The weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1. If an individual’s weekly benefit amount is less than five dollars, it shall be five dollars. The maximum weekly benefit amount shall be determined annually as follows: On or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports submitted on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June 30 of the year shall be divided by the average monthly number of individuals performing services in the employment during the same four calendar quarters as reported on the contribution reports. The amount thus obtained shall be divided by fifty-two and the average weekly wage (rounded to the nearest cent) thus determined. Two-thirds of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. The maximum weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection, the term “previously uncovered services” means services:

- (1) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
- (2) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

(Column A)	(Column B)	(Column C)	(Column D)
High Quarter Wages	Basic Weekly Benefit	Minimum Qualifying Wages	Maximum Total benefits in Benefit Year
\$ 37.50- 125.00	\$ 5.00	\$ 150.00	\$ 130.00
125.01- 150.00	6.00	180.00	156.00
150.01- 175.00	7.00	210.00	182.00

175.01- 200.00	8.00	240.00	208.00
200.01- 225.00	9.00	270.00	234.00
225.01- 250.00	10.00	300.00	260.00
250.01- 275.00	11.00	330.00	286.00
275.01- 300.00	12.00	360.00	312.00
300.01- 325.00	13.00	390.00	338.00
325.01- 350.00	14.00	420.00	364.00
350.01- 375.00	15.00	450.00	390.00
375.01- 400.00	16.00	480.00	416.00
400.01- 425.00	17.00	510.00	442.00
425.01- 450.00	18.00	540.00	468.00
450.01- 475.00	19.00	570.00	494.00
475.01- 500.00	20.00	600.00	520.00
500.01- 525.00	21.00	630.00	546.00
525.01- 550.00	22.00	660.00	572.00
550.01- 575.00	23.00	690.00	598.00
575.01- 600.00	24.00	720.00	624.00
600.01- 625.00	25.00	750.00	650.00
625.01- 650.00	26.00	780.00	676.00
650.01- 675.00	27.00	810.00	702.00
675.01- 700.00	28.00	840.00	728.00
700.01- 725.00	29.00	870.00	754.00
725.01- 750.00	30.00	900.00	780.00
750.01- 775.00	31.00	930.00	806.00
775.01- 800.00	32.00	960.00	832.00
800.01- 825.00	33.00	990.00	858.00
825.01- 850.00	34.00	1020.00	884.00
850.01- 875.00	35.00	1050.00	910.00
875.01- 900.00	36.00	1080.00	936.00
900.01- 925.00	37.00	1110.00	962.00
925.01- 950.00	38.00	1140.00	988.00
950.01- 975.00	39.00	1170.00	1014.00
975.01-1000.00	40.00	1200.00	1040.00
1000.01-1025.00	41.00	1230.00	1066.00
1025.01-1050.00	42.00	1260.00	1092.00
1050.01-1075.00	43.00	1290.00	1118.00
1075.01-1100.00	44.00	1320.00	1144.00
1100.01-1125.00	45.00	1350.00	1170.00
1125.01-1150.00	46.00	1380.00	1196.00
1150.01-1175.00	47.00	1410.00	1222.00
1175.01-1200.00	48.00	1440.00	1248.00
1200.01-1225.00	49.00	1470.00	1274.00
1225.01-1250.00	50.00	1500.00	1300.00
1250.01-1275.00	51.00	1530.00	1326.00
1275.01-1300.00	52.00	1560.00	1352.00
1300.01-1325.00	53.00	1590.00	1378.00
1325.01-1350.00	54.00	1620.00	1404.00
1350.01 and over	55.00	1650.00	1430.00

SECTION 5. Section 383-29, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-29 Eligibility for benefits.** (a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department of labor and industrial relations finds that:

- (1) Claim. He has made a claim for benefits with respect to such week in accordance with such regulations as the department may prescribe.
- (2) Registration. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the department may prescribe, except that the department may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such regulation shall conflict with section 383-21.
- (3) Availability. He is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) Waiting period. He has been unemployed for a waiting period of one week within his benefit year, provided that no individual shall be required to serve a waiting week if the first week of his unemployment occurring within a benefit year is immediately preceded by a week of unemployment in the preceding benefit year for which benefits are payable. Notwithstanding any provisions of this section to the contrary, an individual shall be eligible to receive benefits for the waiting period of one week if he is entitled to benefits for each of the twelve consecutive weeks following his waiting period. No week shall be counted as a waiting period:
  - (A) If benefits have been paid with respect thereto;
  - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph (4).
- (5) Wages for insured work; weeks of employment.
  - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, he has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears his weekly benefit amount.
  - (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, he has had during his

base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears his weekly benefit amount.

- (C) In the case of an individual whose benefit year begins on or after January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least thirty times his weekly benefit amount as determined under section 383-22(b). For the purpose of this subparagraph, wages for insured work shall include wages paid for services:
  - (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
  - (ii) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.
- (D) For the purposes of this paragraph (5), wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in section 383-1(19) were paid has satisfied the conditions of section 383-1(9) with respect to becoming an employer.

(b) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performed such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any institution of education in the second of such academic years or terms.

(c) Benefits based on services, substantially all of which consists of participating or preparing or training to participate in sports or athletic events, shall not be paid to an individual for any week of unemployment which begins during the period between two successive sport seasons (or similar periods) if the individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that the individual will perform such services

in the second of such seasons (or similar periods).

(d) Benefits shall not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act). Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(e) Notwithstanding any provisions of this chapter to the contrary, a claimant shall not be denied benefits because of his regular attendance at a vocational training or retraining course which the director of labor and industrial relations has approved and continues from time to time to approve for the claimant. The director may approve such course for a claimant only if:

- (1) Reasonable employment opportunities for which the claimant is fitted by training and experience do not exist in the locality or are severely curtailed;
- (2) The training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the locality;
- (3) The training course is offered by a competent and reliable agency; and
- (4) The claimant has the required qualifications and aptitudes to complete the course successfully."

SECTION 6. Section 383-62, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-62 Rate of contributions; financing benefits paid to government employees and employees of nonprofit organizations.** (a) Each employer shall pay contributions equal to three per cent of wages paid by him during each calendar year with respect to employment except as otherwise prescribed in this part.

Notwithstanding any other provision of this part to the contrary, for the calendar year 1977 each employer (except any employer making payments instead of contributions pursuant to subsection (b) or (d) of this section) shall pay contributions equal to three and one-half per cent (3.5%) of wages paid by him during such calendar year.

(b) In lieu of contributions required of employers under this chapter, the State and its political subdivisions and instrumentalities (hereinafter referred to as "governmental employers" or "governmental employer" as the case may be) shall pay in advance to the director of labor and industrial relations for the fund an amount equivalent to:

- (1) The amount of regular benefits plus one-half the amount of extended benefits payable in each calendar quarter beginning prior to January 1,

1979 to individuals based on wages paid by governmental employers;  
and

- (2) The amount of regular benefits plus the amount of extended benefits payable in each calendar quarter beginning after December 31, 1978 to individuals based on wages paid by governmental employers.

The director shall notify each governmental employer of the amount of money required to be paid to him. Such amounts shall be paid to the director prior to the commencement of the calendar quarter in which benefits are payable.

If benefits paid an individual are based on wages paid by one or more governmental employers and one or more other employers, or on wages paid by two or more employers, or on wages paid by two or more governmental employers, the amount payable by a governmental employer to the director for the fund shall be in accordance with the provisions of paragraphs (1) and (2) of subsection (e) of this section, governing the allocation of benefit costs among employers liable for payments in lieu of contributions and between such employers and employers liable for contributions.

For the purposes of paragraphs (1) and (2) of subsection (e), governmental employers are employers liable for payments in lieu of contributions. The amount of payment required from governmental employers shall be ascertained by the department of labor and industrial relations and shall be paid from the general funds of such governmental employers upon approval by the comptroller of the State or the director of financy of the respective counties, except that to the extent that benefits are paid on the basis of wages paid by governmental employers from special administrative funds, the payment into the unemployment compensation fund shall be made from such special funds.

(c) Notwithstanding the provisions of subsection (b) of this section to the contrary, any governmental employer which is or becomes subject to this chapter after December 31, 1977 may, in accordance with this subsection (c), elect to pay contributions pursuant to the provisions of this part (with the exception of the provisions in subsection (b) and subsections (d) through (g) of this section) applicable to other employers. For the purposes of this subsection (c) the term "governmental employer" shall apply to the State of Hawaii and to each county of this State, as separate and individual employers.

- (1) Any governmental employer which is subject to this chapter on January 1, 1978 may elect to become liable for contributions for a period of not less than two calendar years beginning with January 1, 1978; provided it files with the department a written notice of its election within the thirty-day period following such date.
- (2) Any governmental employer which becomes subject to this chapter after January 1, 1978 may elect to become liable for contributions for a period beginning with the date on which such subjectivity begins and continuing for not less than two calendar years thereafter by filing with the department a written notice of its election within the thirty-day period following the date on which such subjectivity begins.
- (3) Any governmental employer which has been making payments in lieu of contributions in accordance with subsection (b) of this section for a

period subsequent to January 1, 1978 may elect to become liable for contributions for a period of not less than two calendar years beginning with January 1 of the year following the year in which the election is made by filing with the department a written notice of its election not later than thirty days prior to the beginning of any calendar year.

- (4) Any governmental employer which makes an election in accordance with paragraph (1), (2), or (3) of this subsection shall continue to be liable for contributions until it files with the department a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall be effective.
- (5) The department may for good cause extend the period within which a notice of election or a notice of termination must be filed.
- (6) The department shall notify each governmental employer of any determination which it may make of the effective date of any election which such governmental employer makes and of any termination of such election. Such determination shall be conclusive upon such governmental employer unless, within fifteen days after the notification was mailed or delivered to it, such governmental employer files with the department an application for review and redetermination, setting forth the reasons therefor. The department shall promptly review and reconsider its determination and shall thereafter issue a redetermination in any case in which such application has been filed. Any such redetermination shall be conclusive upon the governmental employer unless, within fifteen days after the redetermination was mailed or otherwise delivered to it, the governmental employer files written notice of appeal with the department setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.
- (7) Should any governmental employer, having made payments in lieu of contributions in accordance with subsection (b) of this section, elect to pay contributions under this part, any amount of positive reserve balance remaining in the self-financing account of such employer after all liabilities against such account under subsection (b) of this section have been satisfied shall be refunded to such employer.
- (8) Any governmental employer which elects to become liable for contributions under this part shall pay contributions for the first year of such election at the rate which applies to employers who become subject to this chapter during such year.

(d) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection, a nonprofit organization is an organization (or groups of organizations) described in subsection 501(c) (3) of the United States Internal Revenue Code which is exempt from income tax under section 501(a) of such code.

- (1) Liability for contributions and election of reimbursement. Any nonprofit organization which is, or becomes, subject to this chapter on or

after January 1, 1972 shall pay contributions under the provisions of this part (with the exception of the provisions in subsection (b) of this section) applicable to other employers unless it elects, in accordance with this paragraph, to pay to the director of labor and industrial relations for the fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

- (A) Any nonprofit organization which is, or becomes, subject to this chapter on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with January 1, 1972, provided it files with the department a written notice of its election within the thirty-day period immediately following such date, or within a like period immediately following the date of enactment of this subparagraph, whichever occurs later.
- (B) Any nonprofit organization which becomes subject to this chapter after January 1, 1972 may elect to become liable for payment in lieu of contributions for a period beginning with the date on which such subjectivity begins and continuing for not less than two calendar years thereafter by filing a written notice of its election with the department not later than thirty days immediately following the date of the determination of such subjectivity.
- (C) Any nonprofit organization which makes an election in accordance with subparagraphs (A) or (B) of this paragraph will continue to be liable for payments in lieu of contributions until it files with the department a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall be effective.
- (D) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the department not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.
- (E) The department may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.
- (F) The department, in accordance, with such regulations as the director of labor and industrial relations may prescribe, shall notify each nonprofit organization of any determination which it may make of such organization's status as an employer and of the effective date of any election which such organization makes and of any

termination of such election. Such determination shall be conclusive upon such organization unless, within fifteen days after the notice thereof was mailed to its last known address or otherwise delivered to it, such organization files with the department an application for review and redetermination, setting forth the reasons thereof. The department shall promptly review and reconsider its determination and shall thereafter issue a redetermination in any case in which such application has been filed. Any such redetermination shall be conclusive upon the organization unless, within fifteen days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files written notice of appeal with the department, setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.

- (2) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of subparagraph (A).
  - (A) As determined by the director of labor and industrial relations, and department shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during the week, or other prescribed period, that is attributable to service in the employ of such organization other than previously uncovered services as defined in section 383-22(b).
  - (B) Payment of any bill rendered under subparagraph (A) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph (D).
  - (C) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.
  - (D) The amount due specified in any bill from the department shall be conclusive and binding upon a nonprofit organization unless, within fifteen days after the notice thereof was mailed to its last known address or otherwise delivered to it, such organization files with the department an application for review and redetermination, setting forth the reasons therefor. The department shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in which such application has been filed. Any such redetermination shall be conclusive on the organization unless, within fifteen days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization filed written notice of appeal with

the department, setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.

- (3) Provision of security. Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required, within thirty days after the effective date of its election, to deposit with the department an amount of money as security.
  - (A) The amount of the deposit required by this paragraph shall be equal to .2 per cent of the organization's total wages paid for employment during the calendar year immediately preceding the effective date of the election. If the nonprofit organization did not pay wages in each of the four calendar quarters of such calendar year, the amount of the deposit shall be as determined by the department.
  - (B) Any deposit of money in accordance with this paragraph shall be retained by the department in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The department may deduct from the money deposited under this paragraph by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions. The department shall require the organization within thirty days following any deduction from a money deposit under the provisions of this subparagraph to deposit sufficient additional money to make whole the organization's deposit at the prior level. The department may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, the department determines that an adjustment is necessary, it shall require the organization to make additional deposit within thirty days of written notice of its determination or shall return to the organization such portion of the deposit as it no longer considers necessary, whichever action is appropriate. Disposition of income from moneys held in escrow shall be governed by the applicable provisions of the state law.
  - (C) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this paragraph, the department may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which such termination becomes effective; provided that the department may extend for good cause the applicable deposit or adjustment period by not more than thirty days.
- (e) Each employer, other than government employers, that is liable for payments in lieu of contributions under this section shall pay to the director of labor and industrial relations for the fund the amount of regular benefits plus the

amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of paragraph (1) or paragraph (2).

(1) Proportionate allocation when fewer than all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers that are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(2) Proportionate allocation when all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(f) Two or more employers, including governmental employers, that have become liable for payments in lieu of contributions, may file a joint application to the department of labor and industrial relations for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon its approval of the application, the department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the department receives the application, and it shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the department or upon application by the group. The director of labor and industrial relations shall prescribe such regulations as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this paragraph, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this paragraph by members of the group and the time and manner of such payments.

(g) When a nonprofit organization terminates its self-financing status and elects to pay contributions under this chapter, any remaining amount of positive reserve balance in its self-financing account will be transferred to its contributory reserve account. The department shall determine the contribution rate of such

employer in accordance with provisions of section 383-66(2)."

SECTION 7. Section 383-65, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-65 Charges and noncharges for benefits.** (a) Except as otherwise provided in this section, benefits paid to an individual shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by the employer bear to the total amount of base period wages paid to the individual by all of his base period employers. Benefits paid in benefit years beginning after June 30, 1963 shall be charged to employer's accounts in the calendar year in which the benefits are paid.

(b) Benefits paid to an individual, who, during his base period, earned wages for part-time employment with an employer, shall not be charged to the account of the employer if he continues to give the individual employment to the same extent while he is receiving benefits as during the base period and the employer establishes such fact to the satisfaction of the director of labor and industrial relations.

(c) Benefits paid to an individual for the period he is enrolled in and is in regular attendance at a vocational training or retraining course approved by the director pursuant to section 383-29 shall not be charged to any of his base period employers.

(d) For the purposes of the arrangements in which the department will participate pursuant to section 383-106(b) only, "base period" as used in this section shall mean the base period of this or any other state applied to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws.

(e) Benefits paid to an individual under the provisions of the extended benefits program, sections 383-168 to 383-174, of this chapter, shall not be charged to the account of any of his base period employers on a contributory plan except that one-half of the amount of such benefits which are based on services performed for a governmental employer on a contributory plan and which are paid for weeks of unemployment beginning after December 31, 1978 shall be charged to the account of such employer. Provisions of section 383-62(b) and 383-62(d) (2) (A) will apply in the reimbursement of benefits which are paid to an individual who, during his base period, was employed by a governmental employer making payments in lieu of contributions or a nonprofit organization electing payment in lieu of contributions.

(f) Benefits paid to an individual who qualifies to receive benefits by meeting the minimum earnings and employment requirements only by combining his employment and wages earned in two or more states shall not be charged to the reserve account of any base period employer on a contributory plan within this State.

(g) Any benefit overpaid to a claimant as a result of ineligibility or disqualification under sections 383-29 and 383-30 shall not be charged to the reserve account of a base period employer on a contributory plan unless such

overpayment resulted from the employer's failure to furnish information as required by this chapter or the rules and regulations of the department.

(h) Benefits paid to an individual with respect to wages paid for previously uncovered services as defined in section 383-22(b) or for services for which an exclusion was granted pursuant to section 383-78 shall not be charged to the account of any of such individual's base period employers, but only to the extent that the fund is reimbursed for such benefits by the federal government pursuant to section 121 of Public Law 94-566."

SECTION 8. Section 383-78, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-78 Exclusion of agricultural labor, election.** (a) An employer may apply to the director of labor and industrial relations for the exclusion from employment within the meaning of this chapter of all services performed for him which constitute agricultural labor as defined in section 383-9. The director shall grant the exclusion if the applicant:

- (1) Files with the director a written election that the benefits payable with respect to all services performed for such employer which constitute agricultural labor as defined in section 383-9 shall be governed by and determined under chapter 384. The written election shall be in a form prescribed by the director.
- (2) Also furnishes proof satisfactory to the director of his solvency and financial ability to pay to the director the amount of all benefits paid by the director pursuant to chapter 384 for his account or furnishes a bond or other security acceptable to the director conditioned upon the making of such payments.

(b) Any exclusion granted pursuant to this section shall be retroactive to the beginning of the calendar quarter preceding the calendar quarter in which the written election was filed with the director. The exclusion shall remain in effect for a period of not less than four consecutive calendar quarters and thereafter until the employer gives written notice to the director of his election to terminate the exclusion; provided that the director may terminate the exclusion if he finds that the employer fails to continue to meet the requirements of subsection (a)(2). Termination of the exclusion under this section shall not become effective until the end of the quarter in which notice is given.

(c) During the effective period of the exclusion granted to the employer pursuant to this section, no agricultural labor performed for the employer shall be deemed to be employment within the meaning of this chapter. The benefits payable to any individual with respect to agricultural labor performed for the employer during such period shall be governed by and determined under chapter 384.

(d) If the services performed during more than one-half of any pay period by an individual for the person employing him constitute agricultural labor, all the services of the individual for such period shall be deemed, for the purposes of this section, to be agricultural labor; but if the services performed during one-half or more of any such pay period by an individual for the person employing him do not constitute agricultural labor, then none of the services of

the individual for such period shall be deemed, for the purposes of this section, to be agricultural labor. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment or remuneration is ordinarily made to the individual by the person employing him.

(e) Notwithstanding any other provision of this section to the contrary, no exclusion shall be granted pursuant to this section after December 31, 1977, and any exclusion granted pursuant to this section and still in effect on December 31, 1977 shall terminate on January 1, 1978."

SECTION 9. Section 383-168, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 383-168 Definitions.** As used in this part, unless the context clearly requires otherwise:

- (1) "Extended benefit period" means a period which:
  - (A) Begins with the third week after whichever of the following weeks occurs first:
    - (i) A week for which there is a national "on" indicator, or
    - (ii) A week for which there is a state "on" indicator; and
  - (B) End with either of the following weeks, whichever occurs later:
    - (i) The third week after the first week for which there is both a national "off" indicator and a state "off" indicator; or
    - (ii) The thirteenth consecutive week of such period; provided that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this State; and provided further that within the period beginning on July 1, 1971 and ending on December 31, 1971, an extended benefit period may become effective and be terminated in this State solely by reason of a state "on" and a state "off" indicator, respectively.
- (2) There is a "national 'on' indicator" for a week if the United States secretary of labor determines that, for period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceed 4.5 per cent.
- (3) There is a "national 'off' indicator" for a week if the United States secretary of labor determines that, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 per cent.
- (4) There is a "state 'on' indicator" for this State for a week if the director of labor and industrial relations determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

- (A) Equaled or exceeded 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and
- (B) Equaled or exceeded 4 per cent.
- (5) There is a "state 'off' indicator" for this State for a week if the director determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
  - (A) Was less than 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
  - (B) Was less than 4 per cent.
- (6) Effective with respect to compensation for weeks of unemployment beginning after December 31, 1977, the determination of whether there has been a state "on" or "off" indicator shall be made under subsections (4) and (5) of this section as if subsection (4) did not contain paragraph (A) thereof and the figure "4" contained in paragraph (B) thereof were "5", and as if subsection (5) did not contain paragraph (A) thereof and the figure "4" contained in paragraph (B) thereof were "5"; except that, notwithstanding the other provisions of this subsection to the contrary, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.
- (7) "Rate of insured unemployment," for purposes of paragraphs (4) and (5) of this section, means the percentage derived by dividing:
  - (A) The average weekly number of individuals filing claims in this State for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his reports to the United States Secretary of Labor, by
  - (B) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.
- (8) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.
- (9) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this part for weeks of unemployment in his eligibility period.
- (10) "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law, including but not limited to chapter 385.
- (11) "Eligibility period" of an individual means the period consisting of the

weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any week thereafter which begins in such period.

- (12) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:
- (A) Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided that for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or
  - (B) His benefit year having expired prior to such week has no, or has insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and
  - (C) (i) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and
  - (ii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee; provided that this provision shall not be applicable to benefits under the Virgin Islands law beginning on the day after the day on which the United States secretary of labor approves under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted by the Virgin Islands for approval.
- (13) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954."

SECTION 10. Section 384-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 384-4 Accounting for benefit paid.** (a) Every agricultural employer shall pay to the director of labor and industrial relations the amount of all benefits paid by the director pursuant to this chapter for his account within thirty

days after mailing of the statement of charges of such benefits by the director, notwithstanding any termination of the exclusion from employment within the meaning of chapter 383 of services performed for him which constitute agricultural labor. If any employer succeeds to or acquires the organization, trade, or business of an agricultural employer, the successor in interest is hereby required to assume the liability of the predecessor employer with respect to payments by the director for the account of the predecessor employer.

(b) Benefits paid to an individual under this chapter shall be charged to the accounts of his base period agricultural employers and the amount of benefits so chargeable against each base period agricultural employer's account shall bear the same ratio to the total benefits paid to the individual under this chapter as the base period wages paid to the individual by such agricultural employer bear to the total amount of base period wages paid to the individual by all of his base period agricultural employers. For the purposes of this section, the base period of the individual shall be the period used in determining the amount of the benefits which would have been payable to the individual pursuant to chapter 383 had agricultural labor not been excluded from employment, and the base period wages paid to the individual shall include only the wages paid for agricultural labor by agricultural employers.

(c) Every agricultural employer shall deposit with the director an amount of money which shall be used for advancing of benefit payments required by this chapter. The amount shall be reimbursed to the employer upon termination of his exclusion pursuant to section 383-78, provided that he has discharged his liability under this chapter. The amount required to be paid shall be determined as follows:

- (1) If an agricultural employer is subject to this chapter on June 23, 1969 he shall pay a sum equal to .2 per cent of the wages paid by him for agricultural labor during the calendar year 1968. This amount shall be paid within thirty days after June 23, 1969.
- (2) If an agricultural employer is not subject to this chapter on June 23, 1969 but becomes so subject thereafter, he shall pay a sum equal to .2 per cent of the wages paid by him for agricultural labor during the calendar year immediately preceding the year in which he became subject to this chapter; provided that if the employer was not engaged as an agricultural employer for the full calendar year immediately prior to becoming subject to this chapter, the director shall assess and collect an amount on the basis of estimated wages which the employer would have paid had he been engaged in agricultural employment for the full calendar year. This amount shall be paid within thirty days after being granted the exclusion under section 383-78. "Wages", as used in this paragraph and the foregoing paragraph (1), shall have the same meaning as that given to the term in section 383-61.

(d) When an employer's exclusion has terminated pursuant to section 383-78(e) and such employer is subject to chapter 383, any positive balance remaining in such employer's self-financing account after the reimbursement of the deposit made pursuant to subsection (c) of this section shall be transferred to the contributory reserve account of such employer established pursuant to section

383-64; and benefits paid for weeks of unemployment beginning on or after January 1, 1978 which would have been paid under this chapter, were it not for the operation of this subsection, shall be paid under chapter 383."

SECTION 11. Section 384-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 384-6 Administration fund.** (a) There is hereby established in the treasury of the State a special fund, to be known as the agricultural unemployment compensation fund, into which there shall be paid all payments specified in this section.

(b) Every agricultural employer subject to this chapter shall pay to the director of labor and industrial relations during the period that he is subject to this chapter, an assessment equal to 1/20 of 1 per cent of his annual payroll. If, on the basis of the cost of the administration of this chapter during the preceding two calendar quarters, the director determines that the fund is insufficient to defray the estimated cost of such administration for the next two calendar quarters, then the rate of the assessment shall be increased to 1/10 of 1 per cent, effective as of the beginning of the first of the next two calendar quarters, which increased rate shall remain in effect until the director determines, on the basis of the cost of administration of this chapter during the preceding two calendar quarters, that such fund is sufficient to defray the estimated cost of such administration for the next four calendar quarters in which case the rate of the assessment shall be reduced to 1/20 of 1 per cent, effective as of the beginning of the first of the next four calendar quarters. Assessments shall become due and be paid by each agricultural employer in accordance with such regulations as the director may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(c) For purposes of this section:

- (1) "Annual payroll" means the total amount of wages for agricultural labor paid by an agricultural employer during calendar year; and
- (2) "Wages" shall not include remuneration in excess of the amount fixed by section 383-61(b) paid with respect to employment (whether agricultural labor or not) to an individual by an agricultural employer during any calendar year.

(d) The balance remaining in the fund on July 1, 1978 which is not required for the administration of this chapter shall be transferred to the unemployment compensation fund established pursuant to section 383-121 and shall be used exclusively for the payment of benefits under chapter 383."

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 13. This Act shall take effect on January 1, 1978, except that the amendments to section 383-2(c), Hawaii Revised Statutes, shall take effect on January 1 of the year following the year in which the United States Secretary of

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\*Edited accordingly.

Labor first approves an unemployment insurance law for the Virgin Islands and the amendment to section 383-62(a), Hawaii Revised Statutes, shall take effect upon the approval of this Act.

(Approved June 1, 1977.)

ACT 149

H.B. NO. 131

A Bill for an Act Relating to the Coordination of Marine Affairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to facilitate better administration and coordination of marine affairs programs in the State of Hawaii. The legislature finds there is a major need for a clear accounting of all funds expended in marine programs. It is often impossible to reconcile discrepancies between the budgets of the marine affairs coordinator, sea grant, the university of Hawaii, individual principal investigators, and the various departments. In order to maintain accuracy and accountability in the fiscal decision-making process, the legislature requires a more thorough review of expenditures.

SECTION 2. Section 218-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 218-3 Powers and duties.** The coordinator shall:

- (a) Develop plans, including objectives, criteria to measure accomplishments of objectives, programs through which the objectives are to be attained, and financial requirements for the total and optimum development of Hawaii's marine resources, including plans, objectives and criteria for the expenditure of state matching funds for federally funded projects based on the needs and goals of the State of Hawaii;
- (b) Conduct systematic analysis of existing and proposed marine programs, evaluate the analysis conducted by the agencies of state government and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of the marine environment;
- (c) Assist those departments having interests in marine affairs, coordinate those activities which involve the responsibilities of multiple state agencies, and insure the timely and effective implementation of all authorized marine projects and programs;
- (d) Establish a continuing program for informing the federal government, other state governments, governments of nations with interests in the Pacific basin, private and public organizations involved in marine science and technology, and commercial enterprises of Hawaii's leadership potential as the center for marine affairs;
- (e) Coordinate the state's involvement in national and international efforts to investigate, develop and utilize the marine resources of the Pacific basin;
- (f) Develop programs to continuously encourage private and public marine exploration and research projects which will result in the

- development of improved technological capabilities in Hawaii;
- (g) Formulate specific program and project proposals to solicit increased investment by the federal government and other sources to develop Hawaii's marine resources and coordinate the preparation and submission of program and project proposals of state agencies;
- (h) Serve as consultant to the governor, state agencies and private industry on matters related to the preservation and enhancement of the quality of Hawaii's marine environment;
- (i) Perform such other services as may be required by the governor and the legislature;
- (j) Contract for services when required for implementation of this chapter, provided that principal investigators shall submit regular progress reports to the marine affairs coordinator, that the release of funds for each project phase shall be contingent upon the approval of said reports by the marine affairs coordinator and that findings and data from all projects shall be considered public information and made available to the public in the office of the marine affairs coordinator; and
- (k) Prepare and submit a report twice a year, on or before July 31, and 20 days before the opening of each legislative session, to the governor and to the legislature on the implementation of this chapter and all matters related to marine affairs, including budgetary information on all projects funded by the marine affairs coordinator and an overview of marine-related projects and programs in the state.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 150

H.B. NO. 219

A Bill for an Act Relating to Recordation in the Bureau of Conveyances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 502-31, Hawaii Revised Statutes, is amended to read:

**"Sec. 502-31 Recording, method.** The registrar shall make or cause to be made an entire literal copy of all instruments required to be recorded in his office, and the registrar, his deputy, or clerk shall certify its correspondence with the original, after which the registrar, his deputy, or clerk shall certify upon the exterior, or indorse upon the recorded instrument, the date of its registry, the book in his office in which, and the page of the book at which it was recorded.

The registrar or his deputy may refuse to accept for record any document of

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\*Edited accordingly.

a size larger than eight and one-half inches by thirteen inches, or which contains a schedule or inventory sheet in excess of such size.

On all documents to be recorded the top two and one-half inches of the first page shall be reserved for recording information. The left-hand three and one-half inches of such space shall be reserved for information to the public to show the person requesting recordation and to whom the document should be returned. The registrar may refuse to accept all instruments, papers, or notices presented for recordation that will not reproduce legibly under photographic or electrostatic methods."

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

SECTION 3. This Act shall take effect July 1, 1977.

(Approved June 2, 1977.)

ACT 151

H.B. NO. 433

A Bill for an Act Relating to Election Precinct Officials.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-71, Hawaii Revised Statutes, is amended to read:

**"Sec. 11-71 Precinct officials; precinct requirements.** There shall be not less than three precinct officials for each precinct one of whom shall be the chairman; provided that in precincts where more than one voting unit has been established, there shall be three precinct officials for each unit. The chairman of precinct officials shall have authority in all units of the precinct.

In all precincts, the chief election officer may assign additional precinct officials, at least one of whom may be designated a voter assistance official.

So far as reasonably practicable, excepting the chairman, not more than fifty per cent of the precinct officials in any precinct shall be of the same political party."

SECTION 2. Section 11-76, Hawaii Revised Statutes, is amended to read:

**"Sec. 11-76 Compensation.** (a) Electronic ballot and voting machine elections. Precinct officials, other than the chairman and voter assistance official, shall be paid \$45 for each election. The voter assistance official shall be paid \$50 for each election. The chairman of the precinct officials for each precinct shall be paid \$55 for each election for a single-unit precinct and \$10 more per unit for larger precincts.

(b) Paper ballot elections. The chairman of the precinct officials and the precinct officials shall receive the same base amounts as in subsection (a). In addition, all precinct officials shall be paid \$1 for each three hundred ballots or portion thereof cast at the precinct."

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\*Edited accordingly.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect July 1, 1977.

(Approved June 2, 1977.)

ACT 152

H.B. NO. 680

A Bill for an Act Relating to the Contractors License Law and the Contractors Recovery Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 444-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) The biennial fee or inactive license fee shall be paid to the contractors license board on or before April 30 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee before such date shall constitute a forfeiture of his license. Any such license may be restored upon written application therefor within sixty days from such date and the payment of the required fee plus an amount equal to ten per cent thereof.

Upon written request by a contractor and for good cause, the board shall place an active license in an inactive status. The license, upon payment of the biennial inactive license fee, may continue inactive for a period of three years after which time it must be reactivated or shall automatically become forfeited. The license may be reactivated at any time within the three-year period by fulfilling the requirements for renewal, including the payment of the appropriate renewal fee.”

SECTION 2. Section 444-26, Hawaii Revised Statutes, is amended to read:†

“Sec. 444-26 Contractors recovery fund; use of fund; fees. The contractors license board is authorized and directed to establish and maintain a contractors recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed contractor, which is in violation of the provisions of this chapter or the regulations promulgated pursuant thereto, may recover by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$10,000 for damages sustained by the act, representation, transaction or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant including courts costs and fees as set by law, and reasonable attorney fees as determined by the court, provided that recovery from the fund shall not be awarded to persons injured by an act, representation, transaction, or conduct of a contractor whose license was in an inactive status at the time of the injury.

\*Edited accordingly.

†See also Act 127, Sec. 6

## ACT 153

Every contractor, when renewing his license in 1974, shall pay in addition to his license renewal fee, a fee of \$50 for deposit in the contractors recovery fund. On or after May 1, 1974, when any person makes application for a contractors license he shall pay, in addition to his original license fee, a fee of \$50 for deposit in the contractors recovery fund. In the event that the contractors license board does not issue the license, this fee shall be returned to the applicant."

SECTION 3. Statutory material to be repealed is bracketed. new material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

## ACT 153

H.B. NO. 777

A Bill for an Act to Amend Section 841-3, Hawaii Revised Statutes, Relating to the Reporting of Deaths.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 841-3 of the Hawaii Revised Statutes is amended to read as follows:

"**Sec. 841-3 Duties.** As soon as any coroner or deputy coroner has notice of the death of any person within his jurisdiction as the result of violence, or as the result of any accident, or by suicide, or suddenly when in apparent health, or when unattended by a physician, or in prison, or in a suspicious or unusual manner, or within twenty-four hours after admission to a hospital or institution, he shall forthwith inquire into and make a complete investigation of the cause of the death.

Any person who becomes aware of the death of any person under any of the circumstances set forth above shall immediately notify the coroner or deputy coroner of the known facts concerning the time, place, manner, and circumstances of the death.

Any person who fails to report the death of a person under circumstances covered herein shall be subject to a fine of not more than \$100."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

(Approved June 2, 1977.)

## ACT 154

H.B. NO. 1061

A Bill for an Act Relating to Quiet Title Actions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 669-2, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

**"Sec. 669-2 Defendants; unknown persons.** (a) Any person may be made a defendant in the action who has or claims, or may claim, an interest in the property adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the issues involved therein.

(b) Unknown persons may be made parties as provided by the rules of court, if:

- (1) It shall be shown by the complaint that there are or may be persons unknown, claiming by, through, or under any named person; or
- (2) Other facts shall be shown by the complaint given rise to an actual controversy between plaintiff and persons unidentified or whose names are unknown.

(c) In any action brought under section 669-1(b):

- (1) There shall be joined as defendants, in addition to persons known to have an adverse interest, the adjoining owners and occupants so far as known.

- (2) If all persons interested who are known or can be joined as provided by subsection (b) have been made parties, the summons in addition to being directed to such parties, may be directed to unknown persons generally and in such case, after service upon the persons summoned, known and unknown, the court shall have jurisdiction to proceed as though all persons interested were in being and personally served, but any adjudication shall, as regards a defendant served pursuant to section 669-3, affect only the property which is the subject of the action except as provided by section 634-23.

(d) In any action brought under section 669-1, the State may be joined as a defendant only when:

- (1) It is an adjoining property owner and the same is alleged by the plaintiff, or
- (2) The party asserting the claim can demonstrate, by a title search prepared at his own expense by an abstractor licensed in the State, that the State has a clear and specific interest in the subject matter of the suit which is adverse to the plaintiff's claim, and a copy of said title search is furnished to the State without cost, together with the complaint."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

A Bill for an Act Relating to Banking.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 403-123, Hawaii Revised Statutes, is amended to

\*Edited accordingly.

read as follows:

**"Sec. 403-123 Deposits; payments.** A savings bank shall issue to each of its savings depositors a passbook or other record evidencing the depositor's account. Each deposit by a savings depositor in a savings account shall be evidenced by an entry in the passbook or by the issuance by the bank of a deposit receipt. Payment against any such savings account shall be made upon the presentation of duly authorized instructions of the depositor, which need not be accompanied by the passbook. Such deposits and payments shall be governed by the rules and regulations of the board of directors of the bank, which shall be given to depositors at each branch office of the bank at the time an application for a savings account is made. If a savings bank does not issue a passbook to savings depositors, the bank shall provide to each savings depositor, at least biannually, a written statement showing the balance in his account, including accrued interest, as of the date of the statement and all transaction since the date of the previous statement."

SECTION 2. Section 403-124, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 156

H.B. NO. 1153

A Bill for an Act Relating to Life Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 431- Interest upon proceeds of life insurance policies.** (a) Except as provided in subsection (d), in the event an action to recover the proceeds due under a life insurance policy or annuity contract is commenced and results in a judgment against the insurer, interest hereon shall be computed under subsection (c) and paid from the date of death of an insured or annuitant in connection with a death claim on a life insurance policy or annuity contract and from the date of maturity of an endowment or annuity contract to the date the verdict is rendered or the report or decision is made.

(b) Except as provided in subsection (d), in the event an action to recover is commenced and a settlement is reached before the verdict is rendered or the report or decision is made, interest on the settlement shall be computed under subsection (c) and paid from the date of death of an insured or annuitant in connection with a death claim on a life insurance policy or annuity contract to the date of payment and from the date of maturity of an endowment or annuity

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\*Edited accordingly.

contract to the date of payment.

(c) In the event no action has been commenced, interest upon the principal sum paid to the beneficiary or policyholder shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest settlement option but the rate of interest shall not be less than six per cent a year computed from the date of death of an insured or annuitant in connection with a death claim on a life insurance policy or annuity contract to the date of payment and from the date of maturity of an endowment or annuity contract to the date of payment and shall be added to and be a part of the total sum paid.

(d) This section shall not require the payment of interest if, in connection with a death claim on a life insurance policy or annuity contract, the proceeds of the policy or contract is paid within 30 days from the date of death.

(e) This section shall not require the payment of interest for any period during which an insurer is required to pay interest under any state or federal law pertaining to interpleader.

(f) This section shall not apply to policies or contracts issued prior to the effective date of this section which contain specific provisions to the contrary."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 157

H.B. NO. 1166

A Bill for an Act Relating to Cable Television.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 275, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"CHAPTER 275  
LIABILITIES AND OFFENSES CONNECTED WITH  
TELEPHONES, WIRE COMMUNICATIONS, AND  
CABLE TELEVISION SYSTEMS"**

SECTION 2. Section 275-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 275-9 Use, sale, or manufacturing of devices or equipment designed to fraudulently obtain telecommunications or cable television services; penalty.** Any person who:

- (1) Makes, possesses, or uses or knowingly participates in the use by another of any instrument, apparatus, equipment, or device designed, adopted, or which can be used or employed for the purpose of:

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\*Edited accordingly.

- (A) Obtaining telecommunications or cable television services or the transmission of a message, signal, or other communication by telephone or telegraph or over telephone, telegraph, or other communication facilities without the payment of applicable charges therefor, or
- (B) Concealing the existence or place or origin or destination of any telecommunications services; or
- (2) Sells, gives, or otherwise transfers to another, or offers or advertises to sell, give, or otherwise transfer any instrument, apparatus, equipment, or device designed, adopted or which can be used or employed for a purpose described in paragraph (1) or instructions or plans for making or assembling the same,

with the intent to use or employ such instrument, apparatus, equipment, or device, or to allow the same to be used or employed for a purpose described in paragraph (1), or knowing or having reason to believe that the same is intended to be used for such purpose or that the plans or instructions are intended to be used for making or assembling such instrument, apparatus, equipment or device for use for such purposes shall be imprisoned for not less than one year nor more than five years and fined an amount not exceeding \$1,000. Any police officer may confiscate by lawful means any such instrument, apparatus, equipment, or device or instructions or plans therefor, referred to in paragraphs (1) and (2), and upon conviction the instrument, apparatus, equipment, device, instructions, or plans shall be destroyed or otherwise disposed of by the court."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 158

H.B. NO. 1198

A Bill for an Act Relating to Degree Granting Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 446D-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 446D-4 Licensing of degree granting institutions.** The director shall issue a license to award degrees in specified educational programs to an applicant upon the presentation of acceptable evidence that the applicant is either chartered as an educational corporation in the State, according to chapter 416, or an educational institution of another state, and that the educational program of the applicant has been accredited by at least one nationally recognized accrediting agency or association listed by the United States Commissioner of Education. The license issued by the director to award degrees shall be limited to the educational program or programs that have been accredited or accepted by

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\*Edited accordingly.

accredited institutions.

The license to award degrees shall be valid as long as accreditation is maintained by the degree granting institutions, subject to the annual renewal provisions of section 446D-10."

SECTION 2. Section 446D-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 446D-5 Temporary permits to grant degrees.** The director may issue a temporary permit to award degrees to an applicant who does not meet the accreditation requirements as set forth in section 446D-4 and who is duly chartered by the State as an educational corporation, or is an educational institution of another State, if the director, upon recommendation by the advisory committee as provided for in section 446D-7, determines that the applicant's academic and financial plans for working toward accreditation are feasible and acceptable.

The temporary permit shall be valid for a period of five years, subject to the annual renewal provisions of section 446D-10. It may be extended by the director, upon recommendation by the advisory committee that the applicant has made acceptable progress toward accreditation, but in no case shall it extend beyond a period of ten years from the initial granting of the temporary permit."

SECTION 3. Section 446D-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 446D-6 Revocation of temporary permit.** The director shall revoke the temporary permit of any degree granting institution, if the holder of a temporary permit:

- (1) Has failed to retain its status as an educational corporation;
- (2) Has presented false or misleading information in obtaining a temporary permit;
- (3) Has failed or refused to permit authorized representatives of the advisory committee established in section 446D-7 to inspect the institution or has failed or refused to make available to the authorized representatives, upon request, full information pertaining to matters within the purview of the State under this chapter; or
- (4) Has refused or failed to meet any other conditions established by rule or regulation promulgated by the director pursuant to chapter 91, upon recommendation of the advisory committee.

A degree granting institution whose temporary permit has expired or has been revoked shall no longer grant degrees."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Personnel of the Judicial Branch.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and Purpose.**

The Constitution of the State of Hawaii provides for three separate and coequal branches of government, the executive branch, the judicial branch, and the legislative branch.

The legislature finds that this concept has been partially implemented, but that the statutes relating to personnel administration are not completely consistent with these constitutional principles.

This remains particularly so with respect to those statutes which appear to permit the executive branch to exercise various administrative controls over the personnel of the judiciary. The purpose of this Act is to conform the personnel laws of the state of Hawaii to the concept that the judiciary is a separate branch of government. At the same time the legislature wishes to preserve the merit principle of judicial administration. This Act recognizes that the state civil service system has two parts, the executive civil service system and the judicial civil service system.

Under this theory the chief justice is generally equated to the governor and the administrative director of the courts is equal to the director of personnel services. For purposes of chapter 89, Collective Bargaining, however, the governor is considered the employer for the judicial as well as the executive branch in order to avoid potential conflict of interest.

To provide additional clarification of the application of Title 7 intended by this Act, the judiciary is given a status coequal with the executive branch of the State and the several counties.

**SECTION 2.** Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**"Sec. 76- Judiciary; powers and duties.** All of the powers and duties assigned in parts I, IV, and V of this chapter to the governor or the director of personnel services shall with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

**SECTION 3.** Section 76-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-4 Agreements of state and county departments and judiciary.** The state department of personnel services, the judiciary, and the several departments of civil service of the counties may enter into agreements for the joint administration of such matters as may be practicable and consistent with this chapter and chapter 77, including the conducting of examinations and other procedures for the establishment and use of eligible lists, reciprocity in the use of eligible lists, and the conducting of salary studies. All eligible lists established or used under the agreements shall be as fully effective as those established or used separately."

**SECTION 4.** Section 76-5, Hawaii Revised Statutes, is amended to read as

follows:

**"Sec. 76-5 Service to judiciary and counties by State.** Subject to the rules of the state department of personnel services, the director of state personnel services may enter into agreements with the judiciary and any county to furnish services and facilities of the state department to the judiciary and any county in the administration of civil service including position classification in the judiciary and any county. The agreements may provide for the reimbursement to the State of the reasonable value of the services and facilities furnished, as determined by the director. The judiciary and all counties are authorized to enter into the agreements."

SECTION 5. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**"Sec. 76- Civil service for the judiciary.** There shall be a civil service system for the judiciary. Except as otherwise specifically provided in this section, all of the provisions of part II shall apply to the judiciary.

- (1) All of the powers and duties assigned to the director of personnel services in part II shall, with respect to the judiciary, be exercised by the administrative director of the courts.
- (2) When applying part II to the judiciary, the term "state" wherever it appears means the judiciary; the term "governor" means the chief justice of the supreme court; the "director" means the administrative director of the courts; and the "department" means the judicial branch."

SECTION 6. Section 76-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-9 Employees of the judiciary.** It is the intent of the legislature that the personnel of the judiciary shall form a separately administered part of the system of personnel administration established by this chapter and chapter 77, unless specifically exempted by this chapter or any other law; provided that:

- (1) The judiciary shall have a status coequal with the executive branch of the State and with the several counties for purposes of the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the judiciary personnel system, including, but not limited to the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination of applicants, and the preparation of eligible lists;
- (2) In the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the judiciary personnel system, the chief justice or his designee shall consult with the director of personnel services;
- (3) Any action of the chief justice or his designee including the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination

of applicants, the preparation of an eligible list, and appeals from suspensions, dismissals and demotions may be appealed by any person, employee or the exclusive bargaining unit representative to the judiciary personnel appeals board. The board shall be composed of three members, one representative from the department of personnel services, one representative of the judiciary and one exclusive bargaining unit representative. The provisions contained in section 26-34 shall not apply to the members of the judiciary personnel appeals board. The board shall sit as an appellate body on matter within the jurisdiction of the judiciary with equal authority as the civil service commission established by section 26-5, Hawaii Revised Statutes.

- (4) Nothing in chapter 76 and 77 shall be construed to require the approval of the governor or any executive agency for the judiciary to establish such positions in the judicial branch as may be authorized and funded by the legislature."

SECTION 7. Chapter 77, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 77- Applicability of chapter to judiciary.** All of the provisions of this chapter apply with equal force to the judiciary as to the State."

SECTION 8. Section 77-1, Hawaii Revised Statutes, is amended by amending the definition of "director" to read as follows:

- "(6) "Director" means the director of personnel services in the case of the State, the administrative director of the courts in the case of the judiciary, director of civil service in the case of the city and county of Honolulu or the respective personnel directors in the case of the counties of Hawaii, Maui, and Kauai."

SECTION 9. Chapter 78, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 78- Applicability of chapter to judiciary.** All of the provisions of this chapter apply with equal force to the judiciary as to the State. The powers and duties assigned in this chapter shall, with respect to the judiciary, be assigned to the chief justice of the supreme court in the place and stead of the governor or chief executive officer for the state, and to the administrative director of the courts in the place and stead of the director of personnel services."

SECTION 10. Chapter 79, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 79- Judiciary; powers and duties.** All of the powers and duties assigned in this chapter to the governor or the director of personnel services shall with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

SECTION 11. Chapter 80, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 80- Judiciary; powers and duties.** All of the powers and duties assigned in this chapter to the governor or director of personnel services shall

with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

SECTION 12. Chapter 81, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 81- Judiciary; powers and duties.** All of the powers and duties assigned in this chapter to the governor or the department or director of personnel services shall with respect to the judiciary be exercised by the chief justice of the supreme court or the administrative director of the courts."

SECTION 13. Chapter 82, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 82- Judiciary; powers and duties.** All of the powers and duties assigned in this chapter to the governor or the director of personnel services shall with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

SECTION 14. Chapter 83, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 83- Judiciary; powers and duties.** All of the powers and duties assigned this chapter to the governor or the director of personnel services shall with respect to the judiciary be exercised by the chief justice of the supreme court or the administrative director of the courts."

SECTION 15. Chapter 84, Hawaii Revised Statutes, is amended by adding to Part IV a new section to be appropriately designated and to read as follows:

**"Sec. 84- Judicial branch.** The powers and duties assigned in this part IV to the governor shall, with respect to employees in the judicial branch, be assigned to the chief justice of the supreme court."

SECTION 16. Section 89-2(9) is amended by amending the definition of "employer" to read as follows:

"(9) "Employer" or "public employer" means the governor in the case of the State, the respective mayors in the case of the city and county of Honolulu and the counties of Hawaii, Maui, and Kauai, the board of education in the case of the department of education, and the board of regents in the case of the university of Hawaii, and any individual who represents one of these employers or acts in their interest in dealing with public employees. In the case of the Judiciary, the governor shall be the employer for the purposes of this chapter."

SECTION 17. Section 601-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

**"(b)** He shall possess the following powers, subject to such rules as may be adopted by the supreme court:

- (1) To assign circuit judges from one circuit to another;
- (2) In a circuit court with more than one judge, (A) to make assignments of calendars among the circuit judges for such period as he may determine and, as deemed advisable from time to time, to change assignments of calendars or portions thereof (but not individual cases) from one judge

to another, and (B) to appoint one of the judges, for such period as he may determine, as the administrative judge to manage the business of the court, subject to the rules of the supreme court and the direction of the chief justice;

- (3) To prescribe for all of the courts a uniform system of keeping and periodically reporting statistics of their business;
- (4) To procure from all of the courts estimates for their appropriations; with the cooperation of the representatives of the court concerned to review and revise them as he deems necessary for equitable provisions for the various courts according to their needs and to present the estimates, as reviewed and revised by him, to the legislature as collectively constituting a unified budget for all of the courts;
- (5) To exercise exclusive authority over the preparation, explanation, and administration of the judiciary budget, programs, plans, and expenditures, including without limitation policies and practices of financial administration and the establishment of guidelines as to permissible expenditures, provided that all expenditures of the judiciary shall be in conformance with program appropriations and provisions of the legislature, and all powers of administration over judiciary personnel that are specified in title 7; and
- (6) To do all other acts which may be necessary or appropriate for the administration of the judiciary."

SECTION 18. Section 601-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 601-3 Administrative director.** The chief justice with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a resident of the State of a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, 1975, he shall receive a salary of not more than \$36,800 a year. Effective January 1, 1976, he shall receive a salary of not more than \$40,000 a year. He shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvement;
- (2) Examine the state of the dockets of the courts, secure information as to their needs of assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;
- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;

- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature;
- (7) Carry out all duties and responsibilities that are specified in title 7 as it pertains to employees of the judiciary; and
- (8) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint a deputy administrative director of the courts subject to chapter 76 but not subject to chapter 77 and such assistants as may be necessary. Such assistants shall be appointed subject to chapters 76 and 77. The salary of the deputy administrative director shall be ninety-five per cent of the administrative director's salary. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and expenditures of public funds for their maintenance and operation."

SECTION 19. No regular civil service employees shall lose their status or have their statutory rights and benefits reduced as a result of this Act.

SECTION 20. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 21. This Act shall take effect on July 1, 1977.

(Approved June 2, 1977.)

## ACT 160

S.B. NO. 1297

A Bill for an Act Relating to the General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 237-13 Imposition of tax.** There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

(1) Tax on manufacturers.

(A) Upon every person engaging or continuing within the State in the business of manufacturing, including compounding, canning, preserving, packing, printing, publishing, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any

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\* Edited accordingly.

article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.

(B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.

(C) If any person liable for the tax on manufacturers shall ship or transport his product, or any part thereof, out of the State, whether in a finished or unfinished condition, or shall sell the same for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph (1). This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:

(i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, are the measure of the value of the products.

(ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by clause (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in clause (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in clause (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining such values.

(iii) At the election of the taxpayer and with the approval of the

department, the taxpayer may make his returns under clause (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.

- (iv) In all cases in which products leave the State in an unfinished condition the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the State.

(2) Tax on business of selling tangible personal property; producing.

- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross proceeds of sales of the business; provided, that insofar as certain retailing is taxed by section 237-16, the tax shall be that levied by section 237-16, and in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business. Upon every person engaging or continuing within this State in the business of a producer the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1)(C) of this section.
- (B) Gross proceeds of sales of tangible property in interstate or foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States which may be now in force or may be hereafter adopted, and whenever there occurs in the State an activity to which, under the Constitution and acts of Congress, there may be attributed gross proceeds of sales, such gross proceeds shall be so attributed.
- (C) No manufacturer or producer, engaged in such business in the State and selling his products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling his products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer as such.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling his products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to him as well as the tax for the privilege of manufacturing or

producing in the State, and he shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of his products required for the privilege of manufacturing or producing in the State. He shall pay the tax imposed in this chapter at the highest rate applicable for any of the privileges exercised by him in respect of the particular products, and the value or gross proceeds of sales of the products, thus subjected to tax at the highest rate, may be deducted insofar as duplicated as to the same products by the measure of the tax upon him for the other privileges enumerated in this paragraph (2), paragraph (1), and section 237-16.

- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3)(C) of this section, and in any such case the tax shall be computed pursuant to the election, notwithstanding this paragraph (2) or paragraph (1) to the contrary.
  - (F) The department, by regulation, may provide that a seller may take from the purchaser of tangible personal property a certificate, in such form as the department shall prescribe, certifying that the sale is a sale at wholesale. If the certificate is so provided for by regulation of the department:
    - (i) Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and
    - (ii) The absence of such a certificate shall, unless the sales of the business are exclusively at wholesale, in itself give rise to the presumption that the sale is not at wholesale.
- (3) Tax upon contractors.
- (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business; provided, that insofar as the business of contracting is taxed by section 237-16, which related to certain retailing, the tax shall be that levied by section 237-16.
  - (B) In computing the tax levied under this paragraph (3) or section 237-16, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under paragraph (3)(A) or section 237-16, on another taxpayer who is a contractor, as defined, or who is a specialty contractor, duly licensed by the department of regulatory agencies pursuant to section 444-9, in respect of his business as such, if the tax on the amount so deducted has been paid by the other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the

name of the person paying the tax on the amount deducted by him or from whom the tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by the other taxpayer with his return, shall relieve the other taxpayer of liability for the amount of the tax withheld.

- (C) In computing the tax levied under this paragraph (3) against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
  - (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sales of the taxpayer on account of the transaction.
  - (ii) The taxpayer making the sale shall have certified to the department that he is taxable with respect to the gross proceeds of the sale, and that he elects to have the tax on such gross income computed the same as upon a sale to the state government.
- (D) A person who, as a business or as a part of a business in which he is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by him (whether held as a leasehold, fee simple, or otherwise), shall upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, be liable to the same tax as if engaged in the business of contracting, unless he shall show that at the time he was engaged in making the improvements it was, and for the period of at least one year after completion of the building, structure, or other improvements, it continued to be his purpose to hold and not to sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by paragraph (3)(B). Upon the election of the taxpayer this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (10).

- (4) Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within the State in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be four per cent of the gross income of the business.
- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under section 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the service so rendered by him.
- (6) Tax on service business. Upon every person engaging or continuing within the State in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of any such business; provided, however, where any person engaging or continuing within the State in any service business or calling renders such services upon the order of or at the request of another taxpayer who is engaged in the service business and who, in fact, acts as or acts in the nature of an intermediary between the person rendering such services and the ultimate recipient of the benefits of services, so much of the gross income as is received by the person rendering the services shall be subjected to the tax at the rate of one-half of one per cent and all of the gross income received by the intermediary from the principal shall be subjected to a tax at the rate of four per cent.
- (7) Tax on insurance solicitors. Upon every person engaged as a licensed solicitor pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to two per cent of the commissions due to such activity.
- (8) Professions. Upon every person engaging or continuing within the State in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income on the practice or exposition.
- (9) Tax on receipts of sugar benefit payments. Upon the amounts received from the United States government by any producer of sugar (or his legal representative or heirs), as defined under and by virtue of the Sugar Act of 1948, as amended, or other acts of the Congress of the United States relating thereto, there is hereby levied a tax of one-half of one per cent of the gross amount received, provided that the tax levied hereunder on any amount so received and actually disbursed to another by such producer in the form of a benefit payment shall be paid by the person or persons to whom such amount is actually

disbursed, and the producer actually making any such benefit payment to another shall be entitled to claim on his return a deduction from the gross amount taxable hereunder in the sum of the amount so disbursed. The amounts taxed under this paragraph shall not be taxable under any other paragraph, subsection, or section of this chapter.

- (10) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect on July 1, 1977.

(Approved June 2, 1977.)

ACT 161

H.B. NO. 1375

A Bill for an Act Relating to John E. and Aiko T. Reinecke.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow John and Aiko Reinecke to sue for damages incurred in connection with their dismissal from the Department of Public Instruction on October 29, 1948.

John E. Reinecke and Aiko T. Reinecke were, at the time of their dismissal, experienced members of the territorial school faculty. Each had taught for more than 17 years and both held lifetime teaching certificates. In 1947, John and Aiko Reinecke were accused of being communists, not possessing the ideals of democracy, and therefore being unfit to teach.

The Reineckes were suspended without pay on November 22, 1947 and subsequently tried before the Commissioners of Public Instruction. Following commission hearings, they were dismissed from employment on October 29, 1948, and John Reinecke's teaching certificate was revoked. The Commission determined that there was potential for bias to occur, and that the Reineckes should be discharged for the good of the Department of Public Instruction.

John and Aiko Reinecke did not find further employment in the teaching field in Hawaii.

In 1976, a "Committee for Justice for the Reineckes" was formed for the

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\*Edited accordingly.

purpose of reinvestigating the 1948 actions. On June 17, the Board of Education appointed a special committee which held several hearings and gathered material in regards to this case. The Office of the Attorney General held a public hearing on August 5, 1976 and subsequently determined that the extraordinary circumstances of the case merited rehearing.

On August 26, the special committee recommended to the full Board that action be taken to correct injustices done to John and Aiko Reinecke in 1948. The Board of Education on October 7, 1976 revoked the decision of the Commissioners of Public Instruction to dismiss John and Aiko Reinecke, and restored the teaching certificate of John Reinecke.

SECTION 2. John E. Reinecke and Aiko T. Reinecke are hereby authorized to sue the State of Hawaii in an appropriate State court to recover damages incurred in connection with their dismissal from the Department of Public Instruction.

SECTION 3. For the purpose of this Act and the adjudication of any claim, the immunity of the State to suit is hereby waived, and John E. Reinecke and Aiko T. Reinecke may proceed against the State as in the case of any other defendant, subject to the same procedures and defenses, except for the defense of immunity from suit or of the statute of limitations, the provisions of which are hereby expressly waived.

SECTION 4. The claimant John E. Reinecke and the claimant Aiko T. Reinecke shall commence the action authorized by this Act in appropriate State court within two years from the effective date of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 162

H.B. NO. 1472

A Bill for an Act Relating to Traffic Violations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291-1 Reckless driving of vehicle or riding of animals; penalty.** Whoever operates any vehicle or rides any animal recklessly in disregard of the safety of persons or property is guilty of reckless driving of vehicle or reckless riding of an animal, as appropriate, and shall be fined not more than \$1,000 or imprisoned not more than one year or both."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-2 of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 205-2 Districting and classification of lands.** There shall be four major land use districts in which all lands in the State shall be placed: urban, rural, agricultural, and conservation. The land use commission shall group contiguous land areas suitable for inclusion in one of these four major districts. The commission shall set standards for determining the boundaries of each district, provided that:

- (1) In the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included;
- (2) In the establishment of boundaries for rural districts, areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre and a minimum lot size of not less than one-half acre shall be included;
- (3) In the establishment of the boundaries of agricultural districts the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation; and
- (4) In the establishment of the boundaries of conservation districts, the "forest and water reserve zones" provided in section 183-41 are renamed "conservation districts" and, effective as of July 11, 1961, the boundaries of the forest and water reserve zones theretofore established pursuant to section 183-41, shall constitute the boundaries of the conservation districts; provided that thereafter the power to determine the boundaries of the conservation districts shall be in the commission.

In establishing the boundaries of the districts in each county, the commission shall give consideration to the master plan or general plan of the county.

Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated.

Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low density residential lots. These districts may include continuous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics.

Agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry; farming activities or uses related to animal husbandry, aquaculture, game and fish propagation; aquaculture, which means the production of aquatic plant and animal life for

food and fiber within ponds and other bodies of water; services and uses accessory to the above activities including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities, and roadside stands for the sale of products grown on the premises; agricultural parks and open area recreational facilities.

These districts may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.

Conservation districts shall include areas necessary for protecting watersheds and water sources; preserving scenic areas; providing park lands, wilderness, and beach reserves; conserving endemic plants, fish, and wildlife; preventing floods and soil erosion; forestry; and other related activities; and other permitted uses not detrimental to a multiple use conservation concept."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 164

H.B. NO. 1533

A Bill for an Act Relating to Public Access.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to further clarify the State's commitment to the right of free movement in public spaces and of access to and use of coastal and inland public recreational areas.

SECTION 2. Chapter 115, Hawaii Revised Statutes, is amended by amending the title to read as follows:

### **"PUBLIC ACCESS TO COASTAL AND INLAND RECREATIONAL AREAS"**

SECTION 3. Section 115-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 115-1 Findings and Purpose.** The legislature finds that miles of shorelines, waters, and inland recreational areas under the jurisdiction of the State are inaccessible to the public due to the absence of public rights-of-way; that the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties and properties bordering inland recreational areas; that the population of the islands is increasing while the presently accessible beach, shoreline, and inland recreational areas remain fixed; and that the absence of public access to Hawaii's shorelines and inland recreational areas constitutes an infringement upon the fundamental right of free

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\*Edited accordingly.

movement in public space and access to and use of coastal and inland recreational areas. The purpose of this chapter is to guarantee the right of public access to the sea, shorelines, and inland recreational areas, and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors.

SECTION 4. Section 115-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 115-2 Acquisition of lands for public rights-of-way and public transit corridors.** When the provisions of section 46-6.5 are not applicable, the various counties shall purchase land for public rights-of-way to the shorelines, and sea, and inland recreational areas, and for public transit corridors where topography is such that safe transit does not exist.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 165

H.B. NO. 1641

A Bill for an Act Relating to Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 269, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 269 Location of records.** A public utility shall keep and maintain within the state such records, books, papers, accounts, and other documents as the public utilities commission may determine are necessary to its effective regulation."

SECTION 2. This Act shall take effect upon its approval.†

(Approved June 2, 1977.)

ACT 166

H.B. NO. 1698

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of "No-fault benefits" to read:

"(10) "No-fault benefits" with respect to any accidental harm shall be subject to an aggregate limit of \$15,000 per person or his survivor and

\*Edited accordingly.

† Edited in manner of other Acts.

means:

- (A) All appropriate and reasonable expenses necessarily incurred or medical, hospital, surgical, professional nursing, dental, optometric, ambulance, prosthetic services, products and accommodations furnished, x-ray and may include any non-medical remedial care and treatment rendered in accordance with the teachings, faith or belief of any group which depends for healing upon spiritual means through prayer;
- (B) All appropriate and reasonable expenses necessarily incurred for psychiatric, physical, and occupational therapy and rehabilitation;
- (C) Monthly earnings loss measured by an amount equal to the lesser of:
  - (i) \$800 per month, or
  - (ii) The monthly earnings for the period during which the accidental harm results in the inability to engage in available and appropriate gainful activity, or
  - (iii) A monthly amount equal to the amount, if any, by which the lesser of (i) or (ii) exceeds any lower monthly earnings of the person sustaining injury at the time he resumes gainful activity.
- (D) All appropriate and reasonable expenses necessarily incurred as a result of such accidental harm, including, but not limited to, (i) expenses incurred in obtaining services in substitution of those that the injured or deceased person would have performed not for income but for the benefit of himself or his family up to \$800 per month, (ii) funeral expenses not to exceed \$1,500, and (iii) attorney's fees and costs to the extent provided in section 294-30(a); provided that that term, when applied to a no-fault policy issued at no cost under the provisions of section 294-24(b) (2), shall not include benefits under subparagraph (A), (B), and (C) for any person receiving public assistance benefits."

SECTION 2. Section 294-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

"(18) "Person receiving public assistance benefits" means any person receiving benefits consisting of medical services or direct cash payments through the department of social services and housing, or benefits from the Supplemental Security Income Program under the Social Security Administration."

SECTION 3. Section 294-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 294-5 Payment from which insurer.** (a) A claim for no-fault benefits for accidental harm of a person who is not an occupant of any motor vehicle involved in an accident may be made against the no-fault insurer of any involved vehicle. The no-fault insurer against whom the claim is asserted shall process and pay the claim as if wholly responsible, but such insurer shall thereafter be entitled to recover from the no-fault insurers of all other involved vehicles proportionate contribution for the benefits paid and the costs of processing the claim.

(b) All no-fault benefits shall be paid secondarily and net of any benefits a person is entitled to receive because of the accidental harm from social security

laws or workers' compensation laws. If the person does not collect such benefits under such laws by reason of the contest of his right to so collect by the person or organization responsible for payment thereof, the injured person, if otherwise eligible, shall, nevertheless, be entitled to receive no-fault benefits and upon payment thereof the no-fault insurer shall be subrogated to the injured person's rights to collect such benefits.

(c) No payment of no-fault benefits may be made to the occupants of a motor vehicle other than the insured motor vehicle or to the operator or user of a motor vehicle engaging in criminal conduct which causes any loss.

(d) The no-fault insurance applicable on a primary basis to accidental harm to which this chapter applies is the insurance on the vehicle occupied by the injured person at the time of the accident, or, if the injured person is a pedestrian (including a bicyclist), the insurance on the vehicle which caused accidental harm to such pedestrian (including a bicyclist).

If there is no such insurance on such vehicle, any other no-fault insurance applicable to the injured person shall apply.

No person shall recover no-fault benefits from more than one insurer for accidental harm as a result of the same accident."

SECTION 4. Section 294-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 294-6 Abolition of tort liability.** (a) Tort liability of the owner, operator or user of an insured motor vehicle, or the operator or user of an uninsured motor vehicle who operates or uses such vehicle without reason to believe it to be an uninsured motor vehicle, with respect to accidental harm arising from motor vehicle accidents occurring in this State, is abolished, except as to the following persons or their administrators, executors, or legal guardians, and in the following circumstances:

- (1) Death occurs to such person in such a motor vehicle accident; or injury occurs to such person which consists, in whole or in part, in a significant permanent loss of use of a part or function of the body; or injury occurs to such person which consists of a permanent and serious disfigurement which results in subjection of the injured person to mental or emotional suffering;
- (2) Injury occurs to such person in a motor vehicle accident in which the amount paid or accrued exceeds the medical-rehabilitative limit established in section 294-10(b) for expenses provided in section 294-2 (10) (A) and (B);
- (3) Injury occurs to such person in such an accident and as a result of such injury the aggregate limit of no-fault benefits outlined in section 294-2 (10) payable to such person are exhausted.

(b) No claim may be made for benefits under the uninsured motorist coverage by an injured person against an insurer who has paid or is liable to pay no-fault benefits to such injured person unless such claim meets the requirements of the foregoing sections (a) (1), (2) or (3).

(c) No provision of this section shall be construed to abolish tort liability manner to limit, the liability of any person in the business of manufacturing,

retailing, repairing, servicing, or otherwise maintaining motor vehicles, arising from a defect in a motor vehicle caused, or not corrected, by an act or omission in the manufacturing, retailing, repairing, servicing, or other maintenance of a vehicle in the course of his business.

(d) No provision of this section shall be construed to exonerate, or in any manner to limit the criminal or civil liability of any person who, in the maintenance, operation, or use of any motor vehicle;

- (1) Intentionally causes injury or damage to a person or property; or
- (2) Engages in criminal conduct which causes injury or damage to person or property; or
- (3) Engages in conduct resulting in punitive or exemplary damages.

(e) No provision of this section shall be construed to abolish tort liability with respect to property damage arising from motor vehicle accidents."

SECTION 5. Section 294-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 294-7 Rights of subrogation.** Whenever any person effects a tort liability recovery for accidental harm, whether by suit or settlement, the no-fault insurer shall be subrogated to fifty per cent of the no-fault benefits, up to the maximum limit specified by section 294-3(c), paid to such person."

SECTION 6. Section 294-11, Hawaii Revised Statutes, is amended by amending subsection (a) (3) to read:

"(3) Additional coverages and benefits with respect to any injury, death, or any other loss from motor vehicle accidents or loss from operation of a motor vehicle. An insurer may provide for aggregate limits with respect to such additional coverage so long as the basic liability coverages provided are not less than those required by section 294-10 (a) (1) and (2)."

SECTION 7. 294-13, Hawaii Revised Statutes, is amended by amending subsection (j) to read:

"(j) For the period of eight years from September 1, 1975, and terminating on August 31, 1983, the commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this chapter as either no-fault insurance or as optional additional insurance except as provided under section 294-23. This eight-year period shall be a period of open rating. Each firm licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner shall, however, monitor and survey the several companies' rate making methods and systems. The commissioner shall require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits, he deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.

Notwithstanding this prohibition, the commissioner shall, in his discretion, intervene at any time during this eight-year period, to adjust rates, for the no-fault, mandatory, or optional-additional coverages, being assessed by any or all insurers, upon a finding that all or any rates are excessively high or unconscionably below the actual costs of provision of the coverage being assured.

On June 1, 1983, the applicable transition provisions of this chapter shall be effective as to rate making and the commissioner shall perform all acts required by this chapter for the setting and regulation of uniform rates conforming to this chapter to be effective on and after September 1, 1983.

In the establishment of their individual rate schedules, each insurer shall conform fully to paragraphs (b) (1), (2), and (4), during the open rating period."

SECTION 8. Section 294-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A person, or his legal representative, shall be disqualified from receiving benefits through the plan, if:

- (1) Such person is disqualified for criminal conduct under section 294-5(c) from receiving the no-fault benefits, or
- (2) Such person was:
  - (A) The owner or registrant of an uninsured motor vehicle at the time of its involvement in the accident out of which such person's accidental harm arose, or
  - (B) The operator or any passenger of such a vehicle at such time with reason to believe that such vehicle was an uninsured motor vehicle."

SECTION 9. Section 294-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A person making a claim for no-fault benefits may be allowed an award of a reasonable sum for attorney's fee, based upon actual time expended, which shall be treated separately from such claim and be paid directly by the insurer to the attorney, and all reasonable costs of suit in an action brought against an insurer who denies all or part of a claim for benefits under such policy unless the court determines that the claim was fraudulent, excessive, or frivolous."

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 11. This Act shall take effect upon its approval.

(Approved June 2, 1977.)

ACT 167

S.B. NO. 1059

A Bill for an Act Relating to Medical and Health Care Providers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 1, Act 219, Session Laws of Hawaii 1976, is amended to read:

"Sec. 1. Legislative findings and purposes. (a) The legislature finds that:

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\*Edited accordingly.

- (1) The national crisis in the area of medical malpractice affects Hawaii to the potential disadvantage of all recipients of health care;
  - (2) There is only one insurance carrier that is actively providing medical malpractice coverage in the State;
  - (3) Premium rates for medical malpractice insurance have increased substantially and are expected to continue to increase under existing condition, both for physicians and surgeons and for hospitals; and
  - (4) Act 161, Session Laws of Hawaii 1975, was enacted as a temporary means to become effective in the event that no insurance carrier would provide medical malpractice insurance coverage in the State, and insurance provided under such joint underwriting plan would be subject to the cost pressures that have led to the existing increasingly high premium rates.
- (b) The purposes of this Act are to:
- (1) Stabilize the medical malpractice insurance situation by reintroducing some principles of predictability and spreading of risk;
  - (2) Decrease the costs of the legal system and improve the efficiency of its procedures to the end that awards are more rationally connected to actual damages; and
  - (3) Provide and improve the machinery for resolving patient grievances against health care providers by the addition of lay members to the board of medical examiners, the hiring of additional staff for the board, increasing the reporting requirements to the board, and changing the method of appointments to the board."

SECTION 2. Sec. -1 of Part I, Section 2, Act 219, Session Laws of Hawaii 1976, is amended by amending the definition of "health care provider" to read:

"(1) "Health care provider" means a physician or surgeon licensed under chapter 453, a health care facility as defined in section 323D-41(4), and the employees of any of them. Health care provider shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of such institution or service."

SECTION 3. Sec. -2 of Part I, Section 2, Act 219, Session Laws of Hawaii 1976, is amended to read:

"Sec. -2 **Attorney's contingent fees arrangements.** (a) In any action for medical tort in which the plaintiff's attorney and the plaintiff agree that the attorney is to be paid a fee only if the plaintiff recovers damages, payment to the attorney shall be limited to a reasonable amount as approved by a court of competent jurisdiction.

(b) If the plaintiff recovers damages as a result of settlement or arbitration award without the initiation of court action, the plaintiff's attorney shall submit the amount of his fee to the circuit court which would have had jurisdiction of the action or the circuit court of the circuit in which the plaintiff resides for approval.

(c) If the plaintiff recovers damages as a result of settlement, arbitration award or judgment after court action has been initiated, the plaintiff's attorney

shall submit the amount of his fee to the court having jurisdiction of the action.

(d) Upon receiving a submission for approval of attorney's fees, the court shall approve the fee or so much thereof as it finds to be reasonable."

SECTION 4. Subsection (b) of Sec. -11 of Part II, Section 2, Act 219, Session Laws of Hawaii 1976, is amended to read:

"(b) Each medical claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the personal injury claims settlement process, one active trial attorney licensed to practice in the courts of the State, and one physician or surgeon licensed to practice under the law of the State. The chairperson shall be appointed by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson from a list of not less than thirty-five physicians or surgeons submitted annually by the board of medical examiners. Each member of the panel shall serve on the panel for a period of one month to hear and decide all claims brought before the panel within the month; provided that a number of the panel who has demonstrated a high degree of effectiveness in finding facts or in conciliating claims brought before the panel may be reappointed to the panel for additional months.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall serve voluntarily and without compensation, but shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on the panel. Such costs shall be paid by the department of regulatory agencies.

The office and meeting space, secretarial and clerical assistance, office equipment and office supplies for the panel shall be furnished by the department of regulatory agencies.

The board of medical examiners shall prepare a list of physicians and surgeons along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, medical and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs will be paid by the department of regulatory agencies."

SECTION 5. Sec. -31 of Part III, Section 2, Act 219, Session Laws of Hawaii 1976, is amended to read:

**"Sec. -31 Establishment of patients' compensation fund.** (a) Effective September 1, 1976, there is established in the department of regulatory agencies, separate and apart from all other moneys or funds, a patients' compensation fund, hereinafter referred to as the "fund", which shall be collected, received, and administered by the insurance commissioner and held by him in trust exclusively for the purposes of this part. The fund may sue and be sued under its name. All amounts received and earned shall be paid into the fund and all claims payable shall be paid from the fund. The fund shall offer medical malpractice insurance

in excess of the basic insurance coverage necessary to participate in the fund as provided in section -36 in such amounts as shall be set by rule adopted by the insurance commissioner pursuant to chapter 91; provided that the liability of the fund for any policy shall not exceed \$1,000,000 per claim and \$5,000,000 per policy period aggregate.

(b) The fund shall consist of:

(1) An annual surcharge levied on every insured health care provider in Hawaii who participates in the fund. The surcharge shall be determined by the insurance commissioner based upon actuarial principles and shall be levied in terms of stated percentage of the annual premium cost to each health care provider for the basic insurance coverage necessary to participate in the fund as provided in section -36. The surcharge shall be collected, on the same basis as premiums, by each insurer or surplus lines agent and paid over to the insurance commissioner;

(2) A reasonable annual amount, levied on every self-insured health care provider in Hawaii who participates in the fund. The amount shall be determined by the insurance commissioner and shall be comparable to that paid by an insured health care provider of the same risk category. The amount shall be paid by the self insured health care provider to the insurance commissioner;

(3) Any loan from the state general funds as provided by section -37; and

(4) Interest earned on any money in the fund.

(c) If on January 31 of any year, the amount of money in the fund exceeds the sum of \$5,000,000 after payment of all claims and expenses and accumulation of appropriate, unencumbered loss reserves in an amount determined by the insurance commissioner, the insurance commissioner shall reduce or waive the surcharges provided for in this section in order to maintain the fund at an approximate level of \$5,000,000."

**SECTION 6.** Subsection (a) of Sec. -32 of Part III, Section 2, Act 219, Session Laws of Hawaii 1976, is amended to read:

"(a) Subject to the limits of liability of the insurance coverage purchased from the fund by a health care provider, the insurance commissioner shall pay an amount from the fund to a claimant for damages on account of a medical tort when and to the extent a final judgment, a binding arbitration award or a settlement of the claim arising as a result of the medical tort or alleged medical tort is in excess of the basic insurance coverage necessary to participate in the fund or is within the provisions of section - , and the judgment, award or settlement is against a health care provider who was a participant in the fund at the time the medical tort or alleged medical tort occurred."

**SECTION 7.** Sec. -33 of Part III, Section 2, Act 219, Session Laws of Hawaii 1976, is amended to read:

**"Sec. -33 Insurance commissioner approval of payment from the fund.** The insurance commissioner shall approve payment of a claim from the fund upon receipt of:

- (1) A certified copy of a final judgment in excess of the basic insurance coverage for a claimant against a participating health care provider; or
- (2) A certified copy of a binding arbitration award in excess of the basic insurance coverage for a claimant against a participating health care provider; or
- (3) A certified copy of a settlement in excess of the basic insurance coverage for a claimant against a participating health care provider; or
- (4) A certified copy of a judgment, binding arbitration award or settlement for a claimant against a health care provider and satisfactory evidence that the claim for which payment is to be made falls within the provisions of section - ."

SECTION 8. Subsection (e) of Sec. -35 of Part III, Section 2 of Act 219, Session Laws of Hawaii 1976, is amended to read:

"(e) If the plaintiff in a medical tort claim offers in writing to settle at a sum within the limits of liability of the basic insurance coverage necessary to participate in the fund, which offer is not accepted by the insurer of the participating health care provider or the participating self insured health care provider, and the claim subsequently results in a judgment or arbitration award that exceeds the limits of liability of the basic insurance coverage; and the offer to settle was rejected in bad faith, the fund shall have a cause of action against the insurer or self insured health care provider for the amount paid by the fund as a result of the bad faith failure to settle. The insurance commissioner, on behalf of the fund, may bring an action to recover on the cause of action and if the judgment is for the fund, it shall also recover reasonable attorneys fees and costs of suit."

SECTION 9. Sec. -36 of Part III, Section 2, Act 219, Session Laws of Hawaii 1976, is amended to read:

**"Sec. -36 Participation in fund; basic insurance coverage.** No health care provider shall be permitted to participate in the patients' compensation fund unless the health care provider gives evidence to the insurance commissioner of medical malpractice insurance coverage in the following amounts:

- (1) For individual physicians or surgeons, \$100,000 per claim and \$300,000 per policy period aggregate;
- (2) For hospitals and other health care providers, \$100,000 per claim and \$1,000,000 per policy period aggregate;

provided that in lieu of the insurance provided for above, a health care provider may participate in the fund upon presenting evidence to the insurance commissioner of a surety bond, proof of qualifications as a self-insurer, or other securities affording coverage for medical torts substantially equivalent to that afforded under a medical malpractice insurance in the amounts provided for above, as applicable, as approved by the insurance commissioner under rules adopted by the insurance commissioner."

SECTION 10. Section 2 of Act 219, Session Laws of Hawaii 1976, is amended by adding a new section to be appropriately designated and to read:

**"Sec. - Claims after six years; payment by patients' compensation**

**fund.** (a) Effective September 1, 1977, subject to the limits of liability of the insurance coverage purchased from the fund by a health care provider, the fund shall pay the entire amount of damages arising as a result of a medical tort for which a health care provider becomes legally liable if the claim for the medical tort is filed with the medical claim conciliation panels established in section -11 more than six years after the occurrence of the medical tort or alleged medical tort and the health care provider was a participant in the fund at the time of occurrence.

(b) The liability of the fund under this section shall arise only for medical torts or alleged medical torts which occur after September 1, 1977 and if the health care provider against whom the claim is made or his insurer give timely notice to the insurance commissioner of the filing of a claim which may fall under the provisions of this section."

SECTION 11. Section 323D-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-12 Functions; state agency.** The state agency shall:

- (1) Conduct the health planning activities of the State and implement those parts of the state health plan and plans of the health systems agencies within the State which relate to state government.
- (2) Prepare, review, and annually revise the preliminary state health plan pursuant to Public Law 93-641, section 1523(a)(2).
- (3) Assist the statewide council in reviewing the state medical facilities plan pursuant to section 323D-31.
- (4) Administer the state certificate of need program pursuant to part IV of this chapter and serve as designated planning agency under Title XI, Sec. 1122 of the Social Security Act, as amended.
- (5) Determine the need for new institutional health services proposed by health systems agencies.
- (6) Review on a periodic basis all institutional health services offered in the State respecting the appropriateness of such activities.
- (7) Do all things necessary as required by federal and state laws."

SECTION 12. Section 453-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 453-2 License required; exceptions.** Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." OR "M.D." to his name, with the intent thereby to imply that he† is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a

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†"He" added.

knowledge of medicine or surgery; (2) prohibit service in the case of emergency or the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided, that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel or physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity with chapter 91, promulgate rules and regulations regarding standards of medical education and training governing physician-support personnel and physician's assistant, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section -3."

SECTION 13. Section 453-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 453-8 Revocation, limitation or suspension of licenses.** Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such license:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for him;
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (6) False, fraudulent, or deceptive advertising;
- (7) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbituate, amphetamine, hallucinogen, or other drug having similar effects;
- (8) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (9) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requir-

ing a license;

- (10) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (11) Conduct or practice contrary to recognized standards of ethics of the medical profession;
- (12) Consistently utilizing medical service or treatment which is inappropriate or unnecessary;
- (13) Violation of the conditions or limitations upon which a limited or temporary license is issued.

If any such license is revoked, limited, or suspended by the board for any act or condition listed in this section, the holder of the license shall be in writing notified by the board of the revocation or suspension. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board of medical examiners."

SECTION 14. Section 657-7.3, Hawaii Revised Statutes, is amended to read:

**"Sec. 657-7.3 Medical torts; limitation of actions; time.** No action for injury or death against a chiropractor, clinical laboratory technologist or technician, dentist, naturopath, nurse, nursing home administrator, dispensing optician, optometrist, osteopath, physician or surgeon, physical therapist, podiatrist, psychologist, or veterinarian duly licensed or registered under the laws of the State, or a licensed hospital as the employer of any such person, based upon such person's alleged, professional negligence, or for rendering professional services without consent, or for error or omission in such person's practice, shall be brought more than two years after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, but in any event not more than six years after the date of the alleged act or omission causing the injury or death. This six year time limitation shall be tolled for any period during which the person has failed to disclose any act, error, or omission upon which the action is based and which is known to him."

SECTION 15. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 16. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 168

S.B. NO. 1203

A Bill for an Act Relating to Acquisition of Voting Stock by Foreign Investors.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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\*Edited accordingly.

**“Sec. 403- Issuance of voting stock; restrictions.** (a) For purposes of this section “foreign corporation” means a corporation not incorporated within the territorial limits of the United States, or a corporation a majority of whose voting stock is held or controlled, directly or indirectly, by nonresident aliens. “Nonresident alien” means a person not a citizen of the United States who is not defined as a resident alien by the United States Immigration and Naturalization Services.

(b) No more than twenty-five per cent of the issued and outstanding voting stock of a corporation organized under the laws of the State and subject to chapter 403 shall be held, whether directly or indirectly, by foreign corporations or nonresident aliens unless prior written approval is obtained from the bank examiner. Every assignment, transfer, contract, or agreement for assignment or transfer of any shares in violation of this section shall be void and of no effect; and no such transfer shall be made on the books of the corporation. Nothing herein shall be construed to make illegal the holding of stock lawfully held, directly or indirectly, prior to the effective date of this section.”

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 269- Issuance of voting stock; restrictions.** (a) For purposes of this section “foreign corporation” means a foreign corporation as defined in section 235-1 or a corporation in which a majority of the voting stock is held by a single foreign corporation as defined in section 235-1.

(b) “Nonresident alien” means a person not a citizen of the United States who is not defined as a resident alien by the United States Immigration and Naturalization Services.

(c) No more than twenty-five per cent of the issued and outstanding voting stock of a corporation organized under the laws of the State and who owns, controls, operates, or manages any plant or equipment, or any part thereof, for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil for the public use, either directly or indirectly and is therefor a public utility within the definition set forth in section 269-1 shall be held, whether directly or indirectly, by any single foreign corporation or any single nonresident alien, or held by any person, unless prior written approval is obtained from the public utilities commission, or unless a transaction is exempt. An exempt transaction is:

- (1) any purchase or sale by an underwriter; or
- (2) a transaction to acquire shares of a corporation with less than one hundred shareholders and less than one million dollars in assets.

Every assignment, transfer, contract, or agreement for assignment or transfer of any shares in violation of this section shall be void and of no effect; and no such transfer shall be made on the books of the corporation. Nothing herein shall be construed to make illegal the holding of stock lawfully held, directly or indirectly, prior to the effective date of this section.

SECTION 3. New statutory material is underscored. In printing this Act,

the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 169

H.B. NO. 135

A Bill for an Act Relating to the Hawaii Employment Security Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 6, Act 157, Session Laws of Hawaii 1976, is amended to read as follows:

“SECTION 6. Section 383-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**Sec. 383-62 Rate of contributions; financing benefits paid to government employees and employees of nonprofit organizations.** (a) Each employer shall pay contributions equal to three per cent of wages paid by him during each calendar year with respect to employment except as otherwise prescribed in this part.

For the calendar years 1977 and 1978 each employer shall pay contributions equal to three and one-half per cent (3.5%) of wages paid by him during such calendar years.

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 170

H.B. NO. 155

A Bill for an Act Relating to Policy Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 225-1, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 225-1 Definitions.** As used in this chapter:

- (1) “Director” means the director of planning and economic development.
- (2) “County general plan” means the comprehensive long-range plan or development plan, if any, which has been adopted by ordinance or resolution by a county council.
- (3) “Policy council” means the council established in section 225-3.
- (4) “State agency” means any department, office, board, or commission of the State.
- (5) “State plan” means a long-range, comprehensive plan and policies

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\*Edited accordingly.

developed pursuant to section 225-21(a) which shall serve as a guide for the future long-range development of the State and contains inter-related statements of the general, social, economic, environmental, physical and design objectives to be achieved for the general welfare and prosperity of the people of the State. Such plan shall include, but not be limited to, a statewide land use guidance policy.

- (6) "Functional plan" means a plan setting forth the policies, programs, and projects designed to implement the objectives of a specific field of activity or program area; and where such activity or program is proposed, administered, or funded, by any agency of the State.

SECTION 2. Chapter 225, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 225- Functional plans.** Functional plans prepared by state agencies shall be in consonance with and further implement the objective and policy statements of the State Plan and shall be submitted to the Legislature for adoption by concurrent resolution. If the Legislature fails to adopt the functional plan it shall revert to the State agency of origin for revision and be resubmitted 20 days prior to the reconvening of the next session of the Legislature. Functional plans prepared and approved by the state administration and received by the Legislature on or after January 1, 1977, shall not be used as a guide or to implement state policy unless said plans shall have been approved by the Legislature."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 171

H.B. NO. 190

A Bill for an Act Relating to Employer Contributions to the Employees' Retirement System and Providing for Separate Contributions to the Pension Accumulation Fund and to the Post Retirement Fund for Policemen, Firemen and Corrections Officers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-115, Hawaii Revised Statutes, is amended to read:

**"Sec. 88-115 Post retirement fund.** The post retirement fund shall be the fund to which shall be credited all moneys contributed by the members and provided by the State and counties to pay the post retirement allowances and from which all post retirement allowances shall be paid in accordance with section 88-90. The State and counties shall contribute to this fund in each fiscal

\*Edited accordingly.

year including the year beginning July 1, 1977 the amount approved by the board on the basis of two and five-tenths per cent of the aggregate annual amount of compensation as of March 31 of the preceding year of all members who were employees of the State and of each county, respectively.

Beginning July 1, 1978, the annual contribution payable by the State and by each county shall be the amount approved by the board on the basis of successive annual actuarial valuations of this fund; provided that the total contributions by the State and counties in each fiscal year shall be sufficient to pay the employer's normal cost of this fund for the year and to liquidate the unfunded accrued liability of this fund as of July 1, 1976 over the period of thirty-eight years beginning July 1, 1976. Such normal cost and accrued liability contributions shall be determined separately for the following two groups of employees: (1) policemen, firemen, and corrections officers, the latter after the actual transfer of all county jails pursuant to executive order of the governor, and (2) all other employees. The board shall certify the amounts to be contributed to this fund by the State and by each county in each fiscal year beginning July 1, 1978, and such amounts shall be appropriated and paid to this fund in the same manner as contributions are appropriated and paid to the pension accumulation fund, based on the aggregate annual compensation of each of the aforesaid two groups of employees who were employed by the State and by each county, respectively, as of March 31 of the year preceding the appropriation of said contributions."

SECTION 2. Section 88-122, Hawaii Revised Statutes, is amended to read:

**"Sec. 88-122 Determination of employer normal cost and accrued liability contributions.** Based on regular interest and such mortality and other tables as are adopted by the board of trustees, the actuary engaged by the board shall, on the basis of successive annual actuarial valuations, determine the employer's normal cost and accrued liability contributions for each fiscal year beginning July 1 separately for the following two groups of employees: policemen, firemen, and corrections officers, the latter, after the actual transfer of all county jails pursuant to executive order of the governor, and all other employees.

(1) With respect to each of the aforesaid two groups of employees, the normal cost for each year after June 30, 1976 shall be the percentage of the aggregate annual compensation of employees as of March 31 of the preceding year which, if contributed over each employee's prospective period of service and added to his prospective contributions, will be sufficient to provide for the payment of all future benefits after subtracting the sum of the unfunded accrued liability as of the beginning of the year and the assets of the pension accumulation fund as of the end of the preceding year. On each June 30 the board shall determine the allocation of the assets of the pension accumulation fund between the aforesaid two groups of employees; provided that the assets of the pension accumulation fund as of June 30, 1976 shall be allocated between the two groups in the same proportion as the aggregate annual compensation of each group as of March 31, 1976.

(2) The total unfunded accrued liability as of July 1, 1976 shall be fixed at \$239,000,000, and shall be allocated as follows: \$32,000,000 to policemen,

firemen, and corrections officers, the latter after the actual transfer of all county jails pursuant to executive order of the governor, and \$207,000,000 to all other employees. With respect to each of the aforesaid two groups of employees, the accrued liability contribution for each year after June 30, 1976 shall be the level annual payment required to liquidate such unfunded accrued liability over the remainder of the period of fifty years beginning July 1, 1964."

SECTION 3. Section 88-123, Hawaii Revised Statutes, is amended to read:

**"Sec. 88-123 Amount of annual contributions by the State and counties.** The contribution payable in each year to the pension accumulation fund by the State and by each county, respectively, shall be determined by allocating the sum of the normal cost and the accrued liability contribution for (1) policemen, firemen, and corrections officers, the latter after the actual transfer of all county jails pursuant to executive order of the governor, and (2) all other employees in the same proportion as the aggregate annual compensation of each group employed by the State and by each county, respectively, as of March 31 of the year preceding the appropriation of said contribution."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall become effective upon its approval and shall be the basis for determining the amount of employer appropriations to the pension accumulation fund and to the post retirement fund for the fiscal year beginning July 1, 1978 and for subsequent fiscal years.

(Approved June 4, 1977.)

## ACT 172

H.B. NO. 250

A Bill for an Act Relating to Family Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-74, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-74 Rules and standards; investigation and questioning; fingerprinting and photographing.** The judges of the family courts shall make such rules and set up such standards of investigation and questioning as they consider necessary to guide and control the police, within their respective jurisdictions, in the handling of cases involving minors coming within the provisions of this chapter. The rules and standards may include limitations and restrictions concerning the fingerprinting and photographing of any child in police custody, provided that when any child commits an act which, if committed by an adult, would be a felony, such rules and standards shall not apply. The rules shall be enforceable as orders of the court."

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\*Edited accordingly.

SECTION 2. Section 571-84, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-84 Records.** The court shall maintain records of all cases brought before it. In proceedings under section 571-11, and in paternity proceedings under chapter 579, the following records shall be withheld from public inspection: the court docket, petitions, complaints, motions, and other papers filed in any case; transcripts of testimony taken by the court; and findings, judgments, orders, decrees, and other papers other than social records filed in proceedings before the court. The records other than social records shall be open to inspection by the parties and their attorneys, by an institution or agency to which custody of a minor has been transferred, by an individual who has been appointed guardian; with consent of the judge, by persons having legitimate interest in the proceedings from the standpoint of the welfare of the minor; and, pursuant to order of the court or the rules of the court, by persons conducting pertinent research studies, and by persons, institutions, and agencies having a legitimate interest in the protection, welfare, or treatment of the minor.

Reports of social and clinical studies or examinations made pursuant to this chapter shall be withheld from public inspection, except that information from such reports may be furnished, in a manner determined by the judge, to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare, and treatment of the minor.

No information obtained or social records prepared in the discharge of official duty by an employee of the court shall be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive such information, unless and until otherwise ordered by the judge.

Except for the immediate use in a criminal case, any photographs or fingerprints taken of any child shall not be used or circulated for any other purpose and shall be subject to all rules and standards provided for in section 571-74.

The records of any police department, and of any juvenile crime prevention bureau thereof, relating to any proceedings authorized under section 571-11 shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the provisions of this chapter, except as otherwise ordered by the court. Any such police records concerning traffic accidents in which a child or minor coming within section 571-11(1) is involved shall, after the termination of any proceedings under section 571-11(1) arising out of any such accident, or in any event after six months from the date of the accident, be available for inspection by the parties directly concerned in the accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue because of death resulting from any such accident shall be deemed a party concerned.

Evidence given in proceedings under section 571-11(1) or (2) shall not in any civil, criminal, or other cause be lawful or proper evidence against the child or minor therein involved for any purpose whatever, except in subsequent proceedings involving the same child under section 571-11(1) or (2).

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 173

H.B. NO. 269

A Bill for an Act Relating to Annulment, Divorce, and Separation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 580-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 580-1 Jurisdiction; hearing.** Exclusive original jurisdiction in matters of annulment, divorce, and separation, subject to section 603-37 as to change of venue, and subject also to appeal according to law, is conferred upon the family court of the circuit in which the applicant has been domiciled or has been physically present for a continuous period of at least three months next preceding the application therefor. No absolute divorce from the bond of matrimony shall be granted for any cause unless either party to the marriage has been domiciled or has been physically present in the State for a continuous period of at least six months next preceding the application therefor. A person who may be residing on any military or federal base, installation, or reservation within the State or who may be present in the State under military orders shall not thereby be prohibited from meeting the requirements of this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 174

H.B. NO. 672

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 202, Hawaiian Homes Commission Act, 1920, is amended to read:

**"Sec. 202 Department officers, staff, commission, members, compensation.** (a) There shall be a department of Hawaiian home lands which shall be headed by an executive board to be known as the Hawaiian homes commission. The members of the commission shall be nominated and appointed

\*Edited accordingly.

in accordance with section 26-34, Hawaii Revised Statutes. The commission shall be composed of eight members, as follows: three shall be residents of the City and County of Honolulu, of whom one shall be a resident of the Third Senatorial District, a second shall be a resident of the Fourth Senatorial District, and a third shall be a resident of either the Fifth, Sixth or Seventh Senatorial District; one shall be a resident of the county of Hawaii; two shall be residents of the county of Maui one of whom shall be a resident from the island of Molokai; one shall be a resident of the county of Kauai; and the eighth member shall be the chairman of the Hawaiian Homes Commission. All members shall have been residents of the State at least three years prior to their appointment and at least four of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaii islands previous to 1778. The members of the commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. The governor shall appoint the chairman of the commission from among the members thereof.

The commission may delegate to the chairman such duties, powers, and authority or so much thereof, as may be lawful or proper for the performance of the functions vested in the commission. The chairman of the commission shall serve in a full-time capacity. He shall, in such capacity, perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the commission as herein provided above.

(b) The provisions of section 76-16(o) Hawaii Revised Statutes, shall apply to the positions of the first deputy and private secretary to the chairman of the commission. The department may hire a staff consisting of qualified aides in finance and funding, planning and development, legal matters, agriculture and ranching, and other individuals on a contractual basis not subject to chapters 76, 77, and 78, Hawaii Revised Statutes, when the services to be performed will assist in carrying out the purposes of the Act. These positions may be funded through appropriations for capital improvement program projects and by the administration account, development or operating funds. No contract shall be for a period longer than two years, and no individual hired under contract shall be employed beyond a maximum of six years. All other positions in the department shall be subject to the provisions of chapters 76 and 77, Hawaii Revised Statutes, and employees having tenure, according to the employment practices of the department, immediately prior to June 20, 1963 and occupying positions in accordance with the state's position classifications and compensation plans shall be given permanent appointment status under chapter 76 without a reduction in pay or the loss of seniority, prior service credit, vacation or sick leave earned heretofore. An employee with tenure who does not occupy a position under chapters 76 and 77 shall be appointed to the position after it has been classified and assigned to an appropriate salary range by the director of personnel services and such employee shall not suffer a reduction in pay or loss of seniority and other credits earned heretofore.

All vacancies and new positions which are covered by the provisions of chapters 76 and 77, Hawaii Revised Statutes, shall be filled in accordance with the provisions of section 76-23 and 76-31, Hawaii Revised Statutes, provided that the provisions of these sections shall be applicable first to qualified persons

of Hawaiian extraction.”

SECTION 2. Section 222, Hawaiian Homes Commission Act, 1920, is amended to read:

**“Sec. 222 Administration.** (a) The department shall adopt rules and regulations and policies in accordance with the provisions of chapter 91, Hawaii Revised Statutes. The department may make such expenditures as are necessary for the efficient execution of the functions vested in the department of this Act. All expenditures of the department, as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund, in accordance with the provisions of this Act, from the Hawaiian home-loan fund, shall be allowed and paid upon the presentation of itemized vouchers therefore, approved by the chairman of the commission. The department shall make an annual report to the legislature of the State upon the first day of each regular session thereof and such special reports as the legislature may from time to time require. The chairman and members of the commission shall give bond as required by law. The sureties upon the bond and the conditions thereof shall be approved annually by the governor.

(b) When land originally leased by the department is, in turn, subleased by the department’s lessee or sublessee, the department shall submit, within ten days of the convening of any regular session, a written report to the legislature which shall cover the sublease transaction occurring in the calendar year prior to the regular session and shall contain the names of the persons involved in the transaction, the size of the area under lease, the purpose of the lease, the land classification of the area under lease, the tax map key number, the lease rental, the reason for approval of the sublease by the department, and the estimated net economic result accruing to the department, lessee and sublessee.”

SECTION 3. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause or phrase of these legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Advisory Organization.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

“(d) No manual of classification, rule, rate, rating plan, designation of rating territories, or standard for motor vehicle insurance shall be effective unless approved by the commissioner. The commissioner may accept from an advisory organization basic standards, manuals of classification, territories, endorsements, forms and other materials, not dealing with rates, for reference filings by insurers. The commissioner shall have the power to set rates under this chapter, pursuant to and following the procedure under chapter 91, except as specifically provided herein. The commissioner shall not set any rates without a public hearing at which all affected and interested parties have a full opportunity to examine, to comment, and to present evidence on the impact and application of the proposed establishment, or revision of rates. The commissioner shall publish a notice of the date, time, and place of the public hearing at least once in each of three successive weeks in a newspaper of general circulation.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 514, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 514- Commercial Units; metering.** Notwithstanding the provisions of section 514-10, commercial apartments in mixed use projects containing apartments for both residential and commercial use, the construction of which commences after December 31, 1977 shall have a separate meter, or calculations shall be made, or both, to determine the use by the commercial apartments of utilities, including electricity, water, gas, fuel, oil, sewerage, and drainage and the cost of such utilities shall be paid by the owners of such commercial units provided that the apportionment of such charges among owners of commercial apartments shall be done in fair and equitable manner as set forth in the declaration or by-laws.”

SECTION 2. Section 514-11, Hawaii Revised Statutes, is amended by

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\*Edited accordingly.

amending subsection (3) to read as follows:

“(3) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common element to which it has access, designated parking stall, if considered a limited common element and any other data necessary for its proper identification.”

SECTION 3. Section 514-20, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 514-20 Contents of bylaws.** The bylaws shall provide for at least the following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting from the apartment owners their share of the common expenses.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) Seventy-five per cent of the apartment owners may at any time modify or amend the bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (12) The first meeting of the association of apartment owners shall be held

- not later than one hundred eighty days after a certificate of occupancy for the project has been issued by the appropriate county agency.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose.
  - (14) A director shall not vote at any board meeting on any issue in which he has a conflict of interest.
  - (15) No resident manager of the condominium shall serve on the board of directors.
  - (16) The board of directors shall meet at least once a year.
  - (17) Notices of association meetings, whether annual or special shall be sent to each member of the association of apartment owners at least fourteen days prior to such meeting, and shall contain at least: the date and time of such meeting, the place of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the association, if any.
  - (18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only.
  - (19) The resident manager or managing agent, or board of directors shall keep an accurate and current list of members of the association of apartment owners, and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.
  - (20) All association and board of directors meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
  - (21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
  - (22) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
  - (23) That the minutes of meetings of the board of directors, and association of apartment owners shall be available for examination by apartment owners at convenient hours at a place designated by the board."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon approval.

(Approved June 4, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Public Money and Public Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-34, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-34 Contractor's bond; conditions.** Before any contract is entered into, the party with whom the contract is proposed to be made shall give security for the performance thereof by a good and sufficient bond conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and also for the prompt payment to all others for all labor and materials furnished by them to him and used in the prosecution of the work provided for in the contract, which bond shall be in an amount equal to fifty per cent of the contract price, including amounts estimated to be required for extra work, or in the case of price-term, open-end, or requirements contract under which the total amount to be paid to the contractor cannot be accurately estimated at the time the contract is to be awarded, the bond amount shall be as designated in the bid documents. The bond shall also by its terms inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in the work so as to give them a right of action as contemplated by section 507-17."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed materials, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

A Bill for an Act Relating to Health Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The legislature finds that a coordinated system of health planning which links together health services and facilities development will provide the State with the major vehicle for achieving equal access for every resident of the State to high quality health services at a reasonable cost. The legislature further finds that Public Law 93-641, the National Health Planning and Resources Development Act of 1974, will have a direct impact on health planning approaches and processes in the State. The impetus for the new health planning and resources development act was based on the federal government's assessment that there existed a need to strengthen and coordinate planning for personal health services and facilities development. Prior to the enactment of Public Law 93-641, health planning activities were funded under section 314(a)

\*Edited accordingly.

and 314(b) of the Public Health Services Act. Such activities have been reported to be only marginally successful. Among the reasons given for the failure of the present comprehensive health planning activities and programs are inadequate statutes, inadequate funding, and inadequate authority to implement recommendations.

It is further indicated that the greatest contributor to the costs of medical services is the investment in costly health care resources such as facilities and equipment. There is evidence that overbuilding of facilities has occurred in many areas, whereas, some areas may still be experiencing a shortage of facilities, equipment and the attendant manpower.

A key factor for State consideration is the process of planning. The Legislature finds that health planning for the State is a complex area and requires the input of persons of various interests and representing various geographical areas. The planning process must seek to best meet the health needs of the State, as perceived by the residents of the State, who clearly, depending on the community of residence, perceive different needs.

It is the purpose of this Act to ensure the pragmatic health planning of the State by providing a permanent vehicle for citizen input into the health planning process so that the total health services plan of the State will be based on informed decision making. Under the concept of the new federal statute and the purpose of the legislature local input into health planning would be generated through the designation of subareas in which subarea health planning councils are established. Since the health care provider is one of the most important participants in the health care delivery system, the planning process must address the legitimate needs and concerns of the public and private providers if it is to achieve meaningful results. Therefore, the State should develop and use a variety of methods to ensure consumer and provider input. Thus, the State Health Plan would be an integration and coordination of local needs within State guidelines. In addition, accompanying the health plan will be a State Medical Facilities Plan which will establish facilities development priorities, and an annual implementation plan, both based on the State Health Plan.

The purpose of this Act is to amend state law to conform with the requirements for federal funding in health planning and resources development under Public Law 93-641.

SECTION 2. Chapter 323D, Hawaii Revised Statutes, is amended to read:

## **“CHAPTER 323D**

## **HEALTH PLANNING AND RESOURCES DEVELOPMENT**

### **PART I. GENERAL PROVISIONS**

**Sec. 323D-1 Purpose.** The purpose of this chapter is to establish a health planning and resources development program to assure the people of the State accessibility to quality health care through the development of health delivery systems.

**Sec. 323D-2 Definitions.** As used in this chapter:

- (1) "Annual implementation plan" means the annual program plan pursuant to section 323D-16.
- (2) "Secretary" means the secretary of the United States Department of Health, Education, and Welfare.
- (3) "State agency" means the state health planning and development agency established in section 323D-11.
- (4) "State health plan" means the comprehensive, coordinated plan for the development of health services in the State prepared by the statewide council.
- (5) "State medical facilities plan" means the comprehensive medical facilities plan pursuant to section 323D-31.
- (6) "Statewide council" means the statewide health coordinating council established in section 323D-13.
- (7) "Subarea" shall mean one of the geographic subareas designated by the state agency pursuant to section 323D-20.
- (8) "Subarea council" means a subarea health planning council established pursuant to section 323D-20.

## PART II. STATE HEALTH PLANNING AND DEVELOPMENT PROGRAM

**Sec. 323D-11 State health planning and development agency.** There is established within the department of health for administrative purposes only, the state health planning and development agency. The state agency shall be headed by an administrator who shall be appointed by the governor. The state agency shall administer the state health planning activities pursuant to Public Law 93-641 or other subsequent Acts of Congress which may amend, repeal, or succeed Public Law 93-641.

**Sec. 323D-12 Functions; state agency.** The state agency shall:

- (1) Conduct the health planning activities of the State in coordination with the subarea councils and implement the state health plan. If any recommendation of any subarea health planning council is not incorporated into the state health plan an explanation stating the reasons for non-incorporation shall be appended to that plan.
- (2) Prepare, review, and annually revise the preliminary state health plan pursuant to Public Law 93-641, section 1523(a)(2).
- (3) Prepare, review, and revise the annual implementation plan.
- (4) Assist the statewide council in reviewing the state medical facilities plan pursuant to section 323D-31.
- (5) Administer the state certificate of need program pursuant to part V of this chapter.
- (6) Determine the need for new institutional health services proposed to be offered within the state.
- (7) Review on a periodic basis all institutional health services offered in the State respecting the appropriateness of such activities.
- (8) Serve as staff to and provide technical assistance and advice to the statewide council and the subarea councils in the preparation, review

and revision of the state health plan.

- (9) Adopt rules to require maintenance of financial responsibility equal to that required for participation in the patients' compensation fund as provided in section -36.
- (10) Do all things necessary as required by federal and state laws.

**Sec. 323D-13 Statewide health coordinating council** (a) There is established a statewide health coordinating council which shall be advisory to the state agency pursuant to Public Law 93-641, section 1524 and whose membership shall not exceed thirty members.

(b) The statewide council shall be appointed by the governor in accordance with section 26-34. The membership of the statewide council shall be broadly representative of the age, sex, ethnic, income, and other groups that make up the population of the state and shall consist of:

- (1) One representative from each subarea council established in accordance with the provisions of section 323D-20.
- (2) Not less than fifty-one per cent nor more than sixty per cent of the membership shall be consumers of health care.
- (3) Not less than one-third of the members who are providers of health care shall be direct providers of health care.
- (4) Public elected officials and other representatives of governmental authorities and representatives of public agencies concerned with health which is not more than one-third of the total membership.
- (5) Representatives of private agencies concerned with health.
- (6) A percentage of individuals who reside in non-metropolitan areas which is equal to the percentage of residents of the area who reside in nonmetropolitan areas.

In addition the total membership shall include representation as may be required by applicable federal law or implementing regulations.

(c) The statewide council shall select a chairman from among its members. The members of the statewide council shall not be compensated but shall be reimbursed for necessary expenses incurred in the performance of their duties.

**Sec. 323D-14 Functions; statewide health coordinating council.** The statewide council shall:

- (1) Prepare, review, and revise the state health plan.
- (2) Review applications for planning and medical facilities grants pursuant to sections 1516 and 1640, respectively, of Public Law 93-641, and submit a report of its comments to the secretary pursuant to section 1524(c)(4) of Public Law 93-641.
- (3) Advise the state agency on matters relating to its functions.
- (4) Approve the state medical facilities plan, prepared and administered by the state agency pursuant to section 1603 of Public Law 93-641.
- (5) Review annually and approve or disapprove any state plan and any application and any revision of a state plan or application submitted to the secretary of DHEW as a condition to the receipt of any funds under allotments made to the State under the Public Health Service Act, the Community Mental Health Centers Act, or the Comprehen-

sive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 pursuant to the provisions of section 1524(c)(6) of Public Law 93-641.

- (6) Appoint the review panel pursuant to section 323D-42.
- (7) Review and comment upon the following actions by the state agency before such actions are made final:
  - (A) The establishment, annual review and amendment of the annual implementation plan.
  - (B) The development and publication of specific plans and programs for achieving the objectives established in the annual implementation plan.
  - (C) The making of grants and contracts from the area health services fund pursuant to section 1640 of Public Law 93-641.
  - (D) The making of findings as to the need for new institutional health services proposed to be offered in the State and applications for certificate of need.
  - (E) The making of findings as to the appropriateness of existing institutional health services being offered in the State, pursuant to section 1523(a)(6) of Public Law 93-641.
  - (F) The approval or disapproval of each proposed use of federal funds within the State, pursuant to section 1513(c) of Public Law 93-641.

**Sec. 323D-15 State health plan.** There shall be a state health plan which shall include the special needs of the geographic subareas within the State to provide a comprehensive and coordinated statewide health care system.

**Sec. 323D-16 Annual implementation plan.** The state agency shall establish, annually review and amend, as necessary, an annual implementation plan which shall consist of a statement of goals and objectives, a list of priorities for those goals and objectives, and specific programs and projects for achieving stated goals and objectives.

**Sec. 323D-17 Public hearings required.** In the preparation of the state health plan or any amendments of such plans, the state agency and the statewide council, shall conduct a public hearing on such proposed plans and shall comply with chapter 91, Public Law 93-641, and regulations established by the secretary.

**Sec. 323D-18 Information required of providers.** Providers of health care doing business in the State shall submit such statistical and other reports of information related to health and health care as the state agency finds necessary to the performance of its functions.

### PART III. SUBAREA HEALTH PLANNING COUNCILS

**Sec. 323D-20 Subarea health planning councils, established.** There are established subarea health planning councils for geographical areas which shall be designated by the state agency in consultation with the statewide council. Each county shall have at least one subarea health planning council. The subarea health planning councils shall be placed within the state agency for administrative purposes.

**Sec. 323D-21 Subarea health planning councils, functions.** Each subarea health planning council shall review, seek public input, and make recommendations relating to health planning for the geographical subarea it serves. In addition, the subarea health planning councils shall:

- (1) Identify and recommend to the state agency and the council the data needs and special concerns of the respective subareas with respect to the preparation of the state plan.
- (2) Provide specific recommendations to the state agency and the council regarding the highest priorities for health services and resources development.
- (3) Review the state health plan, the medical facilities plan and the annual implementation plan as they relate to the respective subareas and make recommendations to the state agency and the council.
- (4) Advise the state agency in the administration of the certificate of need program for their respective subareas.
- (5) Advise the state agency and the statewide council in the administration of the program to review applications for federal funds pursuant to section 323D-14(5).
- (6) Advise the state agency on the cost of reimbursable expenses incurred in the performance of their functions for inclusion in the state agency budget.
- (7) Advise the state agency in the performance of its specific functions.
- (8) Perform other such functions as agreed upon by the state agency and the respective subarea councils.
- (9) Each respective subarea health planning council shall recommend for gubernatorial appointment one person from its membership to be on the statewide council.

**Sec. 323D-22 Subarea health planning councils, composition, appointment.** Each subarea health planning council shall be constituted in a manner consistent with section 1512(c) of Public Law 93-641, and laws successor thereto or amendatory thereof. Members of subarea health planning councils shall be appointed by the governor, subject to section 26-34. Nominations for appointment shall be solicited from health-related and other interested organizations, and agencies, including health planning councils, providers of health care within the appropriate subarea, and other interested persons. The members of the subarea health planning councils shall not be compensated for their services but shall be reimbursed for reasonable expenses necessary to the performance of their function.

#### **PART IV. STATE MEDICAL FACILITIES**

**Sec. 323D-31 State medical facilities plan.** The state agency shall prepare and administer a state medical facilities plan which shall be approved by the statewide council and be submitted to the secretary for approval pursuant to section 1603 of Public Law 93-641 and any regulations adopted thereunder. In addition, the state agency shall perform all duties and responsibilities required under Title XVI of Public Law 93-641.

**Sec. 323D-32 Public hearings required.** In the preparation of the state medical facilities plan, the statewide council shall conduct public hearings on the proposed plan and shall adopt the plan under chapter 91.

**Sec. 323D-33 Conformance with state health plan.** The state medical facilities plan shall be consistent with the state health plan.

## PART V. CERTIFICATE OF NEED

**Sec. 323D-41 Definitions.** In addition to the definitions in section 323D-2:

- (1) "Applicant" means any person, as defined in section 1-19, who applies for a certificate of need under this part.
- (2) "Capital expenditure" means any purchase or transfer of money or anything of value or enforceable promise or agreement to purchase or transfer money or anything of value incurred by or in behalf of any person for the purposes set forth in section 323D-41(4)<sup>†</sup> and includes the values of facilities and equipment obtained under donation or lease or comparable arrangements as though such items had been acquired by purchase.
- (3) "Certificate of need" means an authorization, when required pursuant to section 323D-43, to construct, expand, alter, or convert health care facility or to initiate, expand, develop, or modify a health care service.
- (4) "Construct", "expand", "alter", "convert", "develop", "initiate", or "modify" includes the erection, building, reconstruction, modernization, improvement, purchase or establishment of a health care facility or health care service; the purchase or acquisition of equipment attendant to the delivery of health care service and the instruction or supervision therefor; the arrangement or commitment for financing the offering or development of a health care facility or health care service; and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary for any such undertaking, which will:
  - (A) Result in a total capital expenditure in excess of \$150,000,
  - (B) Substantially modify, decrease, or increase the scope or type of health service rendered, or
  - (C) Increase, decrease, or change the class of usage of the bed complement of a health care facility.
- (5) "Health care facility" and "health care service" include any program, institution, place, building, or agency, or portion thereof, private or public, other than federal facilities or services, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons. The terms include, but are not limited to, health care facilities and health care services commonly referred to as hospitals, extended care and rehabilitation centers, nursing homes, skilled nursing

<sup>†</sup>"323D-41(4)" substituted for "323-41(4)" to correct manifest error.

facilities, intermediate care facilities, kidney disease treatment centers including freestanding hemodialysis units, outpatient clinics, organized ambulatory health care facilities, emergency care facilities and centers, home health agencies, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

- (6) "Organized ambulatory health care facility" means a facility not part of a hospital, which is organized and operated to provide health services to outpatients. This term includes the following facilities: clinical health centers; diagnostic centers; treatment centers; family planning clinics; family health centers; neighborhood health centers; ambulatory surgical facilities including centers for dental surgery; cosmetic surgery centers; dental clinics; optometric clinics; community mental health and mental retardation centers; outpatient mental health facilities; prenatal or abortion clinics; drug abuse or alcoholism treatment centers; facilities for the provision of outpatient physical therapy services including speech pathology; rehabilitation facilities; any provision of medical or health services by a provider of medical or health services organized as a not-for-profit or business corporation other than a professional corporation; and, any provider of medical or health services which describes itself to the public as a "center", "clinic" or by any name other than the name of one or more of the practitioners providing these services. The agency may adopt rules to establish further criteria for differentiating between the private practice of medicine and organized ambulatory health care facilities.
- (7) "Review panel" means the panel established pursuant to section 323D-42.
- (8) "Substantially modify, decrease, or increase the scope or type of health service" refers to the addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service not previously provided or the termination of such a service which had previously been provided.

**"Sec. 323D-42 Review panel.** There is established a review panel for the purposes of reviewing applications for certificates of need. The review panel shall be appointed by the statewide council. The review panel shall include at least one member from each county and a majority of the members shall be consumers. Membership on the statewide council shall not preclude membership on the review panel established in this section.

**Sec. 323D-43 Certificates of need.** (a) No person, public or private, nonprofit or for profit, shall:

- (1) Construct, expand, alter, convert, develop, initiate, or modify a health care facility or health care services in the State which requires a total capital expenditure in excess of \$150,000; or
- (2) Substantially modify, decrease, or increase the scope or type of health service rendered; or
- (3) Increase, decrease, or change the class of usage of the bed complement of a health care facility, or relocate beds from one physical facility or site to another,

unless a certificate of need therefor has first been issued by the state agency.

(b) No certificate of need shall be issued unless the state agency has first determined that there is a public need for the facility or the service. Each certificate of need issued shall be valid for a period of one year from the date of issuance unless the period is extended for good cause by the state agency.

(c) The state agency shall, after consultation with the statewide council, the subarea councils, and the review panel and health and health-related agencies, establish criteria, which shall be reviewed from time to time in order to maintain compliance with applicable federal law and the purposes of this part, which shall be considered by the state agency in its determinations on certificates of need, including, but not limited to criteria related to:

- (1) The health care needs of the population to be served,
- (2) The relationship of the proposal to the state health plan prescribed in section 323D-15, the annual implementation plan described in section 323D-16, and the state medical facilities plan pursuant to section 323D-31,
- (3) The relationship of the proposal to the long-range development plan of the proponent,
- (4) The relationship of the proposal to the existing health care system of the area,
- (5) The availability of less costly or more effective alternative methods of providing service,
- (6) The quality of the health care services proposed,
- (7) The accessibility of the health care services proposed,
- (8) The immediate and long term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the proponent,
- (9) The availability of resources, including manpower and funds for capital and operating needs, for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services,
- (10) The relationship of the services proposed to ancillary or support services,
- (11) The special needs and circumstances of those entities which provide a substantial portion of their services to people who live outside the state,
- (12) The special needs and circumstances of health maintenance organizations,
- (13) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages,
- (14) In the case of a construction project,
  - (A) The costs and methods of the proposed construction, including the costs and methods of energy provision, and
  - (B) The probable impact of the construction project reviewed on the costs of providing health services by the proponent,
- (15) The availability of evaluation mechanisms, for supplying information to the health planning agency as required in section 323D-52.

(d) Criteria adopted for reviews in accordance with this section may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed.

**Sec. 323D-44 Applications for certificates of need.** (a) An applicant for a certificate of need shall file an application with the state agency which shall provide technical assistance to the applicant and, after all necessary information has been supplied by the applicant in the required number of copies, the state agency shall transmit the application to the appropriate subarea councils, individuals and public agencies.

(b) The state agency shall either approve or deny an application within ninety days after filing unless, within sixty days after filing, the state agency notifies the applicant in writing that the period for considering the application has been extended. The state agency may extend the period within which a determination shall be made on an application, if necessary for obtaining additional information about the application. If a certificate of need has not been issued or denied in writing within one hundred fifty days after filing and completion of the application, the proposal shall be deemed to have been found not to be needed and the state agency shall deny the certificate of need, provided that, if the state agency proposes not to issue the certificate of need, notice of such inaction and the reasons therefor, shall be given in writing to the review panel, the appropriate subarea councils, and the statewide council seven days prior to the expiration of the one hundred fifty day period.

(c) The state agency may provide by rules adopted in conformity with chapter 91, for the issuance of certificates of need for those applications for which the procedures set forth in section 323D-45 would be infeasible because of emergency or other unusual circumstances.

**Sec. 323D-45 Review panel recommendations for issuance or denial of certificates of need.** Except as provided in section 323D-44(c) the state agency shall refer every application for a certificate of need to the review panel. The review panel in studying each application shall consider all relevant data and information submitted by the state agency, subarea councils and other areawide or local bodies and may request from them and from the applicant additional data and information. The review panel shall consider each application at a public meeting and submit its recommendations with findings to the statewide council which shall submit its recommendations to the state agency within such time as the state agency prescribes.

**Sec. 323D-46 Conditional certification.** The state agency may provide by rules adopted in conformity with chapter 91 for the conditional certification of those proposals which, by modification of specific items of the proposal, would successfully meet the criteria for approval. The state agency shall require a statement from the applicant certifying that the required changes have been made before a certificate of need is issued.

**Sec. 323D-47 Request for reconsideration.** The state agency may provide by rules adopted in conformity with chapter 91 for a procedure by which any person may, for good cause shown, request in writing a public hearing for

purposes of reconsideration of the agency's decision. A request for a public hearing shall be deemed by the agency to have shown good cause, if it:

- (1) Presents significant, relevant information not previously considered by the state agency,
- (2) Demonstrates that there have been significant changes in factors or circumstances relied upon by the state agency in reaching its decision,
- (3) Demonstrates that the state agency has materially failed to follow its adopted procedures in reaching its decision, or
- (4) Provides such other bases for a public hearing as the state agency determines constitutes good causes. To be effective a request for such a hearing shall be received within thirty days of the state agency decision. A decision of the state agency following a public hearing under this section shall be considered a decision of the state agency for purposes of section 323D-44.

**Sec. 323D-48 Denial of applications; judicial review.** If an application for a certificate of need is denied, the state agency shall give notice to the applicant in writing stating the grounds for the denial. An applicant who considers himself aggrieved by the denial may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which he resides or in the circuit in which the health care facility or health care service is or was planned to be located.

**Sec. 323D-49 Certificates of need, licenses and permits.** No permit or license shall be issued by any county or state officer for the development, construction, expansion, alteration, conversion, initiation, or modification of a health care facility or health care service or for the operation of a new health care facility or health care service unless there is submitted in connection with the application for such permit or license a current certificate of need issued by the state agency or a statement issued by the state agency that the health care facility or health care service is not required to hold a certificate of need under this part.

**Sec. 323D-50 Certificates of need, penalties.** (a) Any person who violates any provision of this part, or rules thereunder, with respect to the requirement for certificate of need shall be guilty of a misdemeanor for each seven-day period or fraction thereof that the violation continues. Each subsequent seven-day period shall constitute a separate offense.

(b) Any license to operate a health facility may be revoked or suspended by the department of health at any time in a proceeding before the department for any person proceeding with an action covered under section 323D-43 without a certificate of need. If any such license is revoked or suspended by the department, the holder of the license shall be notified in writing by the department of the revocation or suspension. Any license to operate a health facility which has been revoked under this section shall not be restored except by action of the department.

**Sec. 323D-51 Injunctive relief.** The state agency may, in the name of the people of the state through the attorney general of the state apply for an injunction in any court of competent jurisdiction to enjoin any person that has not received a certificate of need; and, upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise, that

person is or has been proceeding with an action covered under section 323D-43 without a certificate of need, may issue a temporary injunction, without notice or bond, enjoining the defendant from further action. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is proceeding with an action covered under section 323D-43 without a certificate of need, the court or any judge thereof may enter a decree enjoining the defendant from further action. In case of violation of any injunction issued under this section, the court may summarily try and punish the offender for contempt of court. The injunction proceeding shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

**Sec. 323D-52 Letters of intent.** Persons proposing construction projects shall submit to the state agency letters of intent in such detail as may be necessary to inform the agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

**Sec. 323D-53 Periodic reports from health facilities.** Any health facility or business subject to regulation under this part shall, at the request of the state agency, supply such information to the state agency as is necessary to carry out the purpose of this chapter, including but not limited to:

- (1) Periodic reports from holders of certificates of need respecting the development of the proposals for which certificates have been issued,
- (2) Master plans, feasibility studies, and other long-range plans and studies,
- (3) Financial information, and
- (4) Utilization information.

**Sec. 323D-54 Exemptions from certificate of need requirement.** Nothing in this part or rules thereunder with respect to the requirements for certification of need applies to:

- (1) Offices of physicians, dentists, or other practitioners of the healing arts in private practice as distinguished from organized ambulatory health care facilities, or laboratories, as defined in section 321-11(12), except in any case of purchase or acquisition of equipment attendant to the delivery of health care service and the instruction or supervision therefor for any such private office or clinic or laboratory involving a total expenditure in excess of \$150,000;
- (2) Dispensaries and first aid stations located within business or industrial establishments maintained solely for the use of employees; provided such facilities do not regularly provide inpatient or resident beds for patients or employees on a daily twenty-four hour basis;
- (3) Dispensaries of infirmaries in correctional or educational facilities;
- (4) Dwelling establishments, such as hotels, motels, and rooming or boarding houses that do not regularly provide health care facilities or health care services;
- (5) Any home or institution conducted only for those who, pursuant to the teachings, faith, or belief of any group, depend for healing upon prayer or other spiritual means.

**PART VI. GENERAL ADMINISTRATION**

**Sec. 323D-61 Personnel.** The administrator of the state agency shall hire necessary personnel under chapters 76 and 77 to carry out the purposes of this chapter.

**Sec. 323D-62 Rules.** The state agency may adopt necessary rules for the purposes of this chapter in accordance with chapter 91."

SECTION 3. Act 152, Session Laws of Hawaii 1976, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 179

H.B. NO. 1696

A Bill for an Act Relating to the Hawaii Occupational Safety and Health Law.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 396-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-3 Definitions.** When used in this chapter:

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations or his designee.

"Appeals board" means the labor and industrial relations appeals board.

"Employer" means:

- (1) The State and every State agency;
- (2) Each county and all public and quasi-public corporations and public agencies therein;
- (3) Every person which has any natural person in service;
- (4) The legal representative of any deceased employer;
- (5) Every person having direction, management, control, or custody of any employment, place of employment, or any employee.

"Employee" means every natural person who is required or directed or permitted or suffered by any employer to engage in any employment, or to go to work or be at any time in any place of employment.

"Employee of the State" includes officers and employees of the department of labor and industrial relations, and persons acting in behalf of the department in an official capacity, whether temporarily or with or without compensation.

"Place of employment" means any place, and the premises appurtenant thereto, where employment is carried on.

"Employment" includes the carrying on of any trade, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged

\*Edited accordingly.

to work for hire except domestic service in or about a private home.

"Safe" and "safety" as applied to an employment or place of employment mean such freedom from danger to employees as the nature of the employment reasonably permits.

"Safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger.

"Manufacturer" means, for the purpose of the section concerning explosives, any person who is engaged in the manufacture of explosives or who otherwise produces any explosive;

"Occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

"Dealer" means, for the purpose of the section concerning explosives, any person, not a manufacturer, engaged in the business of buying and selling explosives.

SECTION 2. Section 396-8, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

"(e) Discharge or discrimination against employee for exercising rights prohibited.

- (1) No person shall discharge, suspend or otherwise discriminate in terms and conditions of employment against any employee by reason of:
  - (A) His failure or refusal to operate or handle any machine, device, apparatus, or equipment which is in any unsafe condition; or
  - (B) His failure or refusal to engage in unsafe practices in violation of this chapter or of any standard, rule, regulation, citation or order issued under the authority of this chapter; or
  - (C) His failure or refusal to operate or handle any machine, device, apparatus, or equipment in violation of this chapter or of any standard, rule, regulation, citation or order issued under the authority of this chapter; or
  - (D) His filing a complaint, having instituted or causing to be instituted any proceeding under or related to this Act, or his intent to testify in any such proceedings, or otherwise acting to exercise rights under this chapter for himself or others.
- (2) Upon discretion of the director or request, names of complainants may be withheld from the employer.
- (3) Within thirty days of the alleged act of discrimination, the employee shall file a complaint with the department setting forth the circumstances thereof.
- (4) The director shall investigate said complaint and if he finds discrimination in violation of this chapter, he shall order the employer to provide necessary relief to the employee. This relief may include re-hiring, reinstatement to former job with back pay and restoration of seniority."

SECTION 3. Section 396-10, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-10 Violations and penalties.** (a) Any employer who violates this chapter, or any occupational safety and health standard promulgated hereunder or any rule or regulation issued under the authority of this chapter, or who violates or fails to comply with any citation, notice or order made under or by virtue of this chapter or under or by virtue of any rule or regulation of the department, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguards, notice or warning required by this chapter or any rule or regulation of the department may be assessed a civil penalty as specified in this chapter.

(b) Any employer who has received an order or citation for a serious violation of any standard, rule or regulation promulgated pursuant to this chapter, shall be assessed a civil penalty of not more than \$1,000 for each such violation.

(c) Any employer who has received an order or citation for a violation of any standard, rule or regulation promulgated pursuant to this chapter, and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to \$1,000 for each such violation.

(d) Each day a violation continues shall constitute a separate violation except that during an abatement period only, no additional penalty shall be levied against the employer.

(e) Any employer who violates any of the posting requirements, as prescribed under the provisions of this chapter, shall be assessed a civil penalty of up to \$1,000 for each violation.

(f) Any employer who willfully or repeatedly violates this chapter, any standard, rule, regulation, citation or order issued under the authority of this chapter, shall be assessed a civil penalty of not more than \$10,000 for each violation.

(g) Any employer who willfully or repeatedly violates any standard, rule, regulation, citation or order issued under authority of this chapter and that violation caused death to an employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months or both, except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year or by both. Failure to correct a violation for which an order or citation of arrest has been issued shall be evidence of willful conduct.

(h) Any employer who has received an order for violation under section 8(e) herein may be assessed a civil penalty of not more than \$1,000 for each violation.

(i) Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the director or his designees shall, upon conviction be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.

(j) The director shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous

violations.

(k) For the purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(l) Civil penalties owed under this chapter shall be paid to the department and may be recovered in a civil action in the name of the department and the State of Hawaii and brought in the district or circuit court for the circuit where the violation is alleged to have occurred or where the employer has its principal office.

(m) Notice of violation. When an alleged violation of any provision of this chapter or any standard, rule, regulation, or order made thereunder has occurred, the department shall promptly issue a written citation, order or notice thereof to the employer who shall be required to post said citation, order or notice. Said citation, order or notice thereof shall include the abatement requirements and within a reasonable time the employer shall be advised of the proposed sanctions, including proposed penalties. Whenever reference is made to posting of any citation, order, notice, petition, decision or any other type of document issued by the director under this chapter and rules and regulations made pursuant to this chapter, the employer shall post copies of the said document at the work site involved or affected and at the place or places where notices to the employees involved are normally posted. Where posting starts the time for notice of action to or for appeal by employees under this chapter and rules and regulations made under this chapter, the document shall be posted by the employer upon receipt or on the next business day following receipt.

(n) Whoever knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

(o) Criminal offenses committed against any employee of the State acting within the scope of his office, or employment, or authority under this chapter shall be subject to the penalties set forth in the Hawaii Penal Code provided that:

- (1) Ten years shall be added to the maximum term of imprisonment (unless life imprisonment is imposed) and \$10,000 shall be added to the maximum fine imposed for conviction under a Class A felony;
- (2) Five years shall be added to the maximum term of imprisonment and \$5,000 shall be added to the maximum fine imposed for conviction under a Class B felony;
- (3) Three years shall be added to the maximum term of imprisonment and \$1,000 shall be added to the maximum fine for conviction under a Class C felony;
- (4) One year shall be added to the maximum term of imprisonment and \$500 shall be added to the maximum fine for conviction for a

misdemeanor;

- (5) The maximum term of imprisonment and maximum fines prescribed for misdemeanors under the Hawaii Penal Code shall apply to convictions for a petty misdemeanor.

SECTION 4. Section 396-11, Hawaii Revised Statutes, is amended to read:

**“Sec. 396-11 Review.** Any citation, proposed penalty or order of the director shall be final and conclusive against the employer unless the employer files with the director a written notice of contest of the citation, the abatement period stated in the citation, the proposed penalty or order within twenty days after receipt of such citation, proposed penalty or order.

The employer may petition the director for modification of the abatement requirements in a citation. The employer shall file said petition no later than the close of the next business day following the date on which abatement is required or under exceptional circumstances and for good cause shown at a later date. The petition for modification may be filed after the twenty day period for contesting the citation has expired where the initial abatement period stated in the citation expires after the twenty day period for filing a notice of contest has run.

The director shall issue an order either affirming or modifying the abatement requirement. The director may issue an order modifying the abatement requirement upon a showing by the employer of a good faith effort to comply with the abatement requirements of a citation and that abatement has not been completed because of factors beyond his reasonable control.

Any employee or representative of employees may file a written notice of contest of the initial abatement period stated in a citation or order with the director alleging that the period of time fixed for abatement is unreasonable, provided such notice is filed within twenty days after the citation or order has been posted. Any employee or representative of employees may also file a written notice of contest of an order granting modification of the abatement period. Such notice shall be filed within ten days of the posting of the order.

Any employee or representative of employees may file a notice of contest of an order of the director denying a complaint of discrimination filed by an employee pursuant to section 396-8(e), provided that in each case such notice is filed within twenty days after the receipt of such order by the employee.

Any employee or representative of employees may file a notice of contest of an order granting an employer's application for a variance under section 396-4(a) (3), provided such notice is filed within twenty days after the posting of a final order or decision of the director.

The director shall advise the appeals board of a notice of contest upon receiving any such notice.

The appeals board shall afford an opportunity for a hearing on any notice of contest. Such hearings before the appeals board shall be de novo except where rules and regulations require a prior formal hearing at the department level, the proceedings of which are required to be transcribed, in which case review before the appeals board shall be confined to the record only.

The appeals board may affirm, modify or vacate the citation, the

abatement requirement therein, the proposed penalty or order or continue the matter upon such terms and conditions as may be deemed necessary, or remand the case to the director with instructions for further proceedings or direct such other relief as may be appropriate.

The affected employees or representatives of affected employees shall be provided an opportunity to participate as parties to hearings under this section."

SECTION 5. Section 396- , Act 95, Sessions Laws of Hawaii 1976, is amended to read:

**"Sec. 396- Exception for federal jurisdiction.** Nothing in this chapter shall apply to working conditions of employees with respect to which any federal agency exercises statutory authority to prescribe and enforce standards or regulations affecting occupational safety or health."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 180

H.B. NO. 999

A Bill for an Act Relating to Traffic Violations and the Rules of the Road.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291-12 Inattention to driving.** Whoever operates any vehicle without due care or in a manner as to cause a collision with, or injury or damage to, as the case may be, any person, vehicle or other property shall be fined not more than \$500 or imprisoned not more than six months, or both."

SECTION 2. Section 291C-62, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-62 Vehicle turning.** The driver of a vehicle intending to turn within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle, bicycle, or person approaching from the opposite direction or proceeding in the same direction when such vehicle, bicycle, or person is within the intersection or so close thereto as to constitute an immediate hazard."

SECTION 3. Section 291C-64, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-64 Vehicle entering highway from private road or driveway.** The driver of a vehicle about to enter or cross a highway (including bicycle lane or bicycle path) from an alley, building, private road, or driveway or from any

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\*Edited accordingly.

public or private property other than a highway that is adjacent to the highway, shall yield the right of way to all vehicles or bicycles approaching on the highway (including bicycle lane or bicycle path) to be entered."

SECTION 4. Section 291C-76, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway, bicycle lane, or bicycle path."

SECTION 5. Section 291C-81, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-81 Required position and method of turning at intersections.** The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. Where a bicycle lane adjacent to the edge of the roadway is designated by appropriate traffic lane markings, the edge of the bicycle lane nearest the center of the roadway shall be deemed the equivalent of the edge of the roadway.
- (2) Left turns. The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and, after entering the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) The director of transportation and the counties in their respective jurisdictions may cause official traffic-control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices."

SECTION 6. Section 291C-94, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-94 Emerging from alley, driveway, or building.** The driver of a vehicle emerging from an alley, building, private road, or driveway or from any public or private property other than a highway that is adjacent to a bicycle lane, bicycle path, sidewalk, or sidewalk area shall stop the vehicle immediately prior to driving onto the bicycle lane, bicycle path, sidewalk, or sidewalk area extending across the alley, building entrance, road, or driveway, or such public or private property, or in the event there is no bikeway or sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon."

SECTION 7. Section 291C-123, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-123 Driving upon bikeway or sidewalk.** No person shall drive any vehicle upon a bicycle lane, bicycle path, sidewalk, or sidewalk area except upon a permanent or authorized temporary driveway; provided that any vehicle may be driven in a bicycle lane or bicycle path if:

- (1) It is in the process of executing a legal turn;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law."

SECTION 8. Section 291C-125, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-125 Opening and closing vehicle doors.** No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with, or causing immediate hazard to the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers."

SECTION 9. Section 265-63, Hawaii Revised Statutes, is repealed.

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 11, This Act shall take effect upon its approval.

(Approved June 4, 1977.)

ACT 181

S.B. NO. 856

A Bill for an Act Establishing a 75th Anniversary Commission on Filipinos Coming to Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Creation of 75th Anniversary Commission.** There is established a commission to be known as the 75th Anniversary Commission which shall have charge of all arrangements for the commemoration of the 75th anniversary of the coming of the Filipinos to Hawaii.

The commission shall be placed within the progressive neighborhood program, office of the governor. It shall not continue beyond December 31, 1981.

**SECTION 2. Membership, compensation.** The commission shall consist of

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\*Edited accordingly.

fifteen members appointed by the governor with the advice and consent of the Senate as provided in section 26-34, Hawaii Revised Statutes. Four of the members shall represent the four county governments, five shall represent the Filipino community at large, and six shall represent the following: the State, government, labor, the University of Hawaii and other groups which can facilitate the implementation of the objectives of the commission. The governor shall designate the chairman of the commission. The members shall receive no compensation for their services but shall be reimbursed for travel and other necessary expenses in the performance of their duties. Only those funds described in section 5 of this Act shall be used for such reimbursements.

**SECTION 3. Powers and duties.** The commission shall prepare an overall program to celebrate the 75th anniversary of the coming of the Filipinos to Hawaii and shall plan, encourage, develop and coordinate program activities of the celebration. In preparing its plans and programs, the commission shall consider any related plans and programs developed by the United Filipino Council of Hawaii and other interested private and public organizations or agencies from whose members the commission may designate special committees to plan, develop and coordinate specific projects or activities.

The commission shall submit to the governor a comprehensive report for the 75th anniversary celebration. The report may recommend activities such as, but not limited to:

- (1) The production, publication and distribution of books, films and other educational materials on the life and the experiences of Filipinos in Hawaii;
- (2) Conferences, convocations, lectures and seminars;
- (3) Ceremonies and celebration commemorating the special event.

**SECTION 4. Cooperation.** In fulfilling its responsibilities, the commission shall consult, cooperate with and seek advice from the United Filipino Council of Hawaii and other appropriate organizations or agencies.

**SECTION 5. Funds and Donations.** The commission may seek grants from public and private sources and may accept donations to finance the projects, programs and activities of the 75th anniversary celebration. All moneys received by the commission shall be deposited with the director of budget and finance and shall be appropriated to the commission. Disbursement of such moneys shall be by State warrants issued in accordance with applicable laws and regulations and shall be based on vouchers signed by the chairman of the commission.

All property acquired by the commission shall be deposited for preservation in the state library system, museums and public archives or shall otherwise be disposed of as directed by the commission.

**SECTION 6. Annual Reports.** The commission shall submit to the governor an annual report of all activities, including an accounting of all moneys received and disbursed.

**SECTION 7.** This Act shall take effect upon its approval.

(Approved June 6, 1977.)

A Bill for an Act Relating to Health Care Providers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter, to be appropriately designated, and to read as follows:

## “CHAPTER PHYSICIANS AND SURGEONS COOPERATIVE INDEMNITY

### PART 1. COOPERATIVE INDEMNITY

**Sec. -1 Definitions.** Unless the context clearly requires otherwise:

“Director” means the director of regulatory agencies.

“Physician” or “surgeon” means any person licensed under chapter 453; or any professional corporation, partnership, or other entity whose stockholders or partners are comprised solely of persons licensed under chapter 453.

**Sec. -2 Cooperative indemnity.** Physicians and surgeons may, any other law to the contrary notwithstanding, form cooperative corporations for the purposes of this chapter. The members of a cooperative corporation, which shall be limited to physicians and surgeons only, may enter into unincorporated interindemnity or reciprocal contracts among themselves; provided that such contracts indemnify solely in respect to medical malpractice claims against such members, and do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration. In addition, each such interindemnity, reciprocal, or interinsurance contract shall meet the requirements of this chapter.

**Sec. -3 Rules.** The director of regulatory agencies may adopt, amend, and repeal rules necessary to implement this chapter, subject to chapter 91.

### PART 2. TRUST AGREEMENTS

**Sec. -11 Trust agreement, required.** (a) Each participating member shall enter into and, concurrently therewith, receive an executed copy of a trust agreement, which shall govern the collection and disposition of all funds of the interindemnity arrangement.

(b) The trust agreement shall, as a minimum, provide for meeting all requirements of this part.

**Sec. -12 Trust corpus, contributions.** There shall be an initial trust corpus of not less than \$5,000,000 which corpus shall be a trust fund to secure enforcement of the interindemnity arrangement. The average initial contribution to such corpus shall be not less than \$20,000 per member participating in the interindemnity arrangement. No such interindemnity arrangement shall become operative until the requisite minimum reserve trust fund has been established by such participating members.

**Sec. -13 Board of trustees.** The reserve trust fund created by such trust agreement shall be administered by a board of trustees of three or more members, all of whom shall be physicians and surgeons, participating members in the interindemnity arrangement, and elected biennially or more frequently by at least a majority of all members participating in the interindemnity arrangement.

**Sec. -14 Board of trustees, custodian.** The board of trustees shall be the custodian of all funds of the interindemnity arrangement, and all such funds shall be deposited in such bank or banks and savings and loan associations in Hawaii as the board designates, and each such account shall require two or more signatories for withdrawal of funds. The authorized signatories shall be appointed by the board and shall be limited to physicians and surgeons and participating members in the interindemnity arrangement. Each signatory on such accounts shall maintain, at all times while empowered to draw on such funds, for the benefit of the interindemnity arrangement, a bond against loss suffered through embezzlement, mysterious disappearance, holdup, or burglary or other loss issued by a bonding company licensed to do business in Hawaii in a penal sum of not less than \$100,000.

**Sec. -15 Funds, investment.** All funds held in trust which are in excess of current financial needs shall be invested and reinvested from time to time, under the direction of the board of trustees, in a manner consistent with the requirements of section 406-22, or in certificates of deposits or time deposits issued by banks and savings and loan associations in Hawaii duly insured by instrumentalities of the United States government.

**Sec. -16 Payments.** The income earned on the corpus of the trust fund shall be the source of the payment of the claims, costs, judgments, settlements, and costs of administration contemplated by such interindemnity arrangement, and to the extent such income is insufficient for such purposes, the board of trustees shall have the power and authority to assess participating members for all amounts necessary to meet the obligations of such interindemnity arrangement in accordance with the terms thereof and any such assessment levied against a member shall be the personal obligation of such member. Any person who obtains a final judgment of recovery for medical malpractice against a member of such interindemnity arrangement shall have, in addition to any other remedy, the right to assert directly all rights to indemnification which the judgment debtor has under the interindemnity arrangement. Such final judgment shall be a lien on the reserve trust fund to secure payment of such judgment, limited to the extent of the judgment debtor's rights to indemnification.

**Sec. -17 Minimum indemnity level.** Each participating member shall be covered by such interindemnity arrangement for not less than \$100,000 for each claim and not less than \$300,000 annual aggregate of professional negligence, with the terms and conditions of such coverage to be specified in the trust agreement.

**Sec. -18 Withdrawal of corpus.** Withdrawal of all, or any portion of, the

corpus of the reserve trust fund shall be upon the written authorization signed by at least two-thirds of the members of the board of trustees.

**Sec. -19 Annual reports; disclosure.** The board of trustees shall furnish the following to each member participating in such interindemnity arrangement, and shall file a copy with the director:

- (1) Within one hundred twenty days after the end of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such year, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for such year, in each case accompanied by a certificate signed by a firm of independent certified public accountants selected by the board of trustees indicating that such firm has conducted an audit of such statements in accordance with generally accepted auditing standards and indicating the results of such audit.
- (2) Within forty-five days after the end of each of the first three quarterly periods of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such quarterly period, a statement of the revenue and expenditures of the interindemnity arrangement and a statement of the changes in corpus of the reserve trust for such period, in each case accompanied by a certificate signed by a majority of the members of the board of trustees to the effect that such statements were prepared from the official books and records of the interindemnity arrangement.

In addition to the statements required to be filed pursuant to this section, the board of trustees shall annually file with the director an authorization for disclosure of all financial records pertaining to the interindemnity arrangement. For the purpose of this paragraph, the authorization for disclosure shall also include the financial records of any association, partnership, or corporation that has management or control of the funds or the operation of the interindemnity arrangement.

**Sec. -20 Death of a member.** In the event a participating member who is in full compliance with the trust agreement dies, the initial contribution made by the decedent shall be returned to the member's estate or designated beneficiary; the indemnity coverage shall continue for the benefit of the decedent's estate in respect of occurrences during the time the decedent was a participating member; and neither the person receiving the repayment of the initial contribution nor the decedent's estate shall be responsible for any assessments levied following the death of the member.

**Sec. -21 Retirement of member.** A participating member who is then in full compliance with the trust agreement and who has reached the age of sixty-five and who has retired completely from the practice of medicine may elect to retire from the interindemnity arrangement, in which case the member shall not be responsible for assessments levied following the date notice of retirement is given to the trust. Following retirement, the indemnity coverage shall continue for the benefit of the member in respect of occurrences prior to the time the

member retired from the interindemnity arrangement. The retired member's initial contribution shall be repaid ten years from the date the notice of retirement is received by the trust, or such earlier date as specified in the trust agreement.

**Sec. -22 Disability of member.** During any period in which a participating member, who is then in full compliance with the trust agreement, has, in the judgment of the board of trustees, become unable to perform any and every duty of his or her regular professional occupation, the indemnity coverage shall continue for the benefit of such member and such member shall not be responsible for assessments levied during such period.

**Sec. -23 Member failure to pay.** In the event a participating member fails to pay any assessment when the same is due, the board of trustees may terminate such person's membership status if such failure to pay is not cured within thirty days from the date the assessment was due. Upon termination the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of ten days following such termination.

**Sec. -24 Noncomplying member.** In the event a participating member fails to comply with any provision of the trust agreement (other than a failure to pay assessments when due), the board of trustees may terminate the person's membership status if such failure to comply is not cured within sixty days from the date the person is notified of the failure; provided that before such membership status may be terminated such person shall be given the right to call for a hearing before the board of trustees (to be held before the expiration of such sixty-day period), at which hearing such person shall be given the opportunity to demonstrate to the board of trustees that no failure to comply has occurred; or, if it has occurred, that it has been cured. Upon termination, the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of ten days following such termination.

**Sec. -25 Voluntary termination of a member.** A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate his or her membership in the interindemnity arrangement. Upon voluntary termination, such person may further elect to cease being responsible for future assessments, or to continue to pay such assessments until such time as such person's initial contribution is repaid. In the event such person elects to cease being responsible for future assessments, the indemnity coverage shall

thereupon terminate and such person shall either be responsible for his or her own exposure for acts committed while a participating member in the interindemnity arrangement, or he or she may request the interindemnity arrangement to purchase or provide, at the cost of such person, coverage for such exposure. The initial contribution of such person shall be repaid on the tenth anniversary of the date such contribution was made. In the event such person elects to continue to be responsible for assessments, the indemnity coverage shall continue in respect of occurrences prior to the date of the voluntary termination, and the initial contribution of such person shall be repaid at such time as the board of trustees is satisfied that (1) there are no claims pending against the person in respect of occurrences during the time the person was a participating member, and (2) the statute of limitations has run on all claims which might be asserted against the person in respect of occurrences during such time. In no event shall such repayment be made earlier than the tenth anniversary of the date such contribution was made.

**Sec. -26 Involuntary termination of a member.** The board of trustees shall have the right to terminate the membership of a participating member where the board of trustees determines that such termination is in the best interests of the interindemnity arrangement even though such person has complied with all of the provisions of the trust agreement. Such a termination may be effected only if at least two-thirds of the members of the board of trustees indicate in writing their decision so to terminate. If the board of trustees proposes to terminate a member, the member shall have the right to call a special meeting of all participating members for the purpose of voting on whether or not the member shall be so terminated. The member shall not be terminated if at least two-thirds of the participating members present indicate that the member should not be terminated. In the event a member is terminated, the person may elect either:

- (1) To request the return of his or her initial contribution, in which case the same shall be repaid and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of thirty days to enable such person to assume his or her own defense; or
- (2) To release all rights to the return of the initial contribution, in which case the indemnity coverage shall continue for the benefit of the member in respect of occurrences during the time the person was a participating member and the person shall have no responsibility for assessments levied following such termination.

**Sec. -27 Rights of members.** Each member participating in an interindemnity arrangement shall have the right of access to, and the inspection of, the books and records of the interindemnity arrangement, subject to reasonable regulation by the board of trustees.

**Sec. -28 Meeting of members.** There shall be a meeting of all members

participating in the interindemnity arrangement, at least annually, after not less than ten days' written notice has been given, at a location reasonably convenient to the participating members and on a date which is within a reasonable period of time following the distribution of the annual financial statements.

**Sec. -29 Termination.** The interindemnity arrangement, and the reserve trust fund incident thereto, shall be subject to termination at any time by the vote or written consent of not less than three-fourths of the participating members.

### **PART 3. BOARD OF TRUSTEES, MEMBERS**

**Sec. -31 Annual report, certificate of transmittal.** The board of trustees shall cause to be recorded with the director within one hundred twenty days following the end of each fiscal year, a written statement, executed by a majority of the board of trustees under penalty of perjury, reciting that each member participating in the interindemnity arrangement was mailed a copy of the annual financial statement and quarterly audit certificates by first-class mail, postage prepaid, required by section -19.

**Sec. -32 Prospective member.** Each physician or surgeon solicited to become a participating member in an interindemnity arrangement shall receive in writing, at least forty-eight hours prior to the execution by the prospective participating member of the trust agreement, and at least forty-eight hours prior to the payment by the prospective participating member of any consideration in connection with such interindemnity arrangements, the following information:

- (1) A copy of the articles of incorporation and bylaws of the cooperative corporation and a copy of the form of trust agreement to be executed by such prospective participating member.
- (2) A disclosure statement regarding the interindemnity arrangement. The disclosure statement shall contain on the first or cover page a legend in boldface type reading substantially as follows:

"THE INTERINDEMNITY ARRANGEMENT CONTEMPLATED HEREIN PROVIDES THAT PARTICIPATING MEMBERS HAVE UNLIMITED PERSONAL LIABILITY FOR ASSESSMENTS WHICH MAY BE LEVIED TO PAY FOR THE PROFESSIONAL NEGLIGENCE LIABILITIES COVERED BY THIS ARRANGEMENT. NO ASSURANCES CAN BE GIVEN REGARDING THE AMOUNT OR FREQUENCY OF ASSESSMENTS WHICH MAY BE SO LEVIED, OR THAT ALL PARTICIPATING MEMBERS WILL MAKE TIMELY PAYMENT OF THEIR ASSESSMENTS TO COVER THE PROFESSIONAL NEGLIGENCE LIABILITY OF A PARTICIPATING MEMBER."

- (3) The disclosure statement shall further contain all of the following information:
  - (A) The amount, nature, and terms and conditions of the professional negligence coverage available under the interindemnity arrangement.
  - (B) The amount of the initial contribution required of each participat-

ing member and a statement of the minimum number of members and aggregate contributions required for the interindemnity arrangement to commence.

- (C) The names, addresses, and professional experience of each member of the board of trustees.
  - (D) The requirements for admission as a participating member.
  - (E) A statement of the services to be provided under the interindemnity arrangement to each participating member.
  - (F) A statement regarding the obligation of each member to pay assessments and the consequences for failure to do so.
  - (G) A statement of the rights and obligations of a participating member in the event the member dies, retires, becomes disabled, or terminates participation for any reason, or the interindemnity arrangement terminates for any reason.
  - (H) A statement regarding the claims administration services to be provided, indicating whether these services will be delegated to others pursuant to a contractual arrangement.
  - (I) A statement of the voting rights of the members and the circumstances under which participation of the member may be terminated and under which the interindemnity arrangement may be terminated.
  - (J) If any statement of estimated or projected financial information for the interindemnity arrangement is issued, a statement of the estimation or projection and a summary of the data and assumptions upon which it is based.
- (4) A list with the names and addresses of all then current participating members of the interindemnity arrangement.

**Sec. -33 Compensation.** No person shall receive, or be entitled to receive any payment, bonus, salary, income, compensation, or other benefit whatsoever, either from the reserve trust fund or the income therefrom or from any other funds of the interindemnity arrangement or the members thereof based on the number of participating members, or the amount of the reserve trust fund or other funds of the interindemnity arrangement.

**Sec. -34 Peer review.** (a) A peer review committee or committees shall be established by the trust agreement to review the qualifications of any physician and surgeon to participate or continue to participate in the interindemnity arrangement, and to review the quality of medical services rendered by any participating member, as well as the validity of medical malpractice claims made against participating members.

(b) Any physician and surgeon, prior to becoming a participating member of the interindemnity arrangement, shall be reviewed and approved by a majority of the members of the peer review committee.

(c) No peer review committee, or any of its members, shall be liable for any action taken by the committee in reviewing the qualifications of a physician and surgeon to participate or continue to participate, or the quality of medical services rendered, or the validity of a medical malpractice claim, unless it is

alleged and proved that such action was taken with actual malice.

#### **PART 4. UNFAIR COMPETITION AND DECEPTIVE ACTS OR PRACTICES**

##### **Sec. -41 Unfair methods of competition and deceptive acts or practices.**

The following are unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements under this chapter:

- (1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised thereby, or making any misleading representation or any misrepresentation as to the financial condition of an interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce the member to lapse, forfeit, or surrender his or her rights to indemnification under the interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."
- (2) Making or disseminating or causing to be made or disseminated before the public in this State, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to such cooperative corporations or interindemnity arrangements, or with respect to any person in the conduct of such cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."
- (3) Entering into any agreement to commit, or by any concerned action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, such cooperative corporations or interindemnity arrangements.
- (4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before the public any false statement of financial conditions of such a cooperative corporation or interindemnity arrangement with intent to deceive.
- (5) Making any false entry in any book, report, or statement of such a co-

operative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such a cooperative corporation or interindemnity arrangement is required by law to report or who has authority by law to examine into its conditions or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to a cooperative corporation or interindemnity arrangement in any book, report, or statement of a cooperative corporation or interindemnity arrangement.

- (6) Making or disseminating, or causing to be made or disseminated, before the public in this State, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that such a cooperative corporation or interindemnity arrangement is insured against insolvency, or otherwise protected by law.
- (7) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:
  - (A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.
  - (B) Failing to acknowledge and act promptly upon communications with respect to claims arising under such interindemnity arrangements.
  - (C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under such interindemnity arrangements.
  - (D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.
  - (E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.
  - (F) Compelling participating members to institute litigation to recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by such participating members when such participating members have made claims under such interindemnity arrangements for amounts reasonably similar to the amounts ultimately recovered.
  - (G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled to by reference to written or printed advertising material accompanying or made part of an application for membership in such an interindemnity arrangement.
  - (H) Attempting to settle claims on the basis of an interindemnity arrangement which was altered without notice to the participating

member.

- (I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.
- (J) Making known to claimants a practice of such cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.
- (K) Delaying the investigation or payment of claims by requiring a claimant, or his or her physician, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.
- (L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.
- (M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, or the denial of a claim or for the offer of a compromise settlement.
- (N) Directly advising a claimant not to obtain the services of an attorney.
- (O) Misleading a claimant as to the applicable statute of limitations.

**Sec. -42 Enforcement.** Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter, he may in his discretion bring an appropriate action in any circuit court of the State to enjoin the acts or practices or to otherwise enforce this chapter. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the director to post a bond.

**Sec. -43 Investigation, publication.** The director may, in his discretion, (1) make such public or private investigations within or outside of this State as he deems necessary to determine whether any person has violated or is about to violate this chapter, or to aid in the enforcement of this chapter, and (2) publish information concerning the violation of this chapter.

**Sec. -44 Hearing, subpoena.** For the purpose of any investigation or proceeding, the director or any person designated by him may hold hearings subject to chapter 91.

**Sec. -45 Refusal to comply.** In case of contumacy by, or refusal to obey a subpoena issued to, any person, the circuit court, upon application by the director, may issue to the person an order requiring him to appear before the director or the officer designated by him, there to produce documentary

evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court shall be punished by the court as a contempt.

**Sec. -46 Attendance and testimony.** No person is excused from attending or testifying or from producing any document or record before the director, or in obedience to the subpoena of the director or any officer designated by him, or in any proceeding instituted by the director, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after validly claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying."

SECTION 2. Section 431-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following contracts are not considered to be insurance for the purposes of this chapter:

- (1) A title insurance contract;
- (2) A bond with respect to which no premium is charged or paid;
- (3) A bond or contract or undertaking in the performance of which the surety has an interest other than that of surety;
- (4) A plan or agreement between an employer and any employee or his representative, individually or collectively, by the terms of which the employer or the parties to the plan or agreement agree to contribute to the cost of nonoccupational disability benefits, medical attention, treatment, or hospitalization for the employee or members of his family unless such plan is underwritten by an insurer as defined in this chapter;
- (5) A prepaid legal service plan as defined in chapter                    other than plans in which either the group offering the plan or the person administering the plan is otherwise subject to this chapter.
- (6) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under chapter                    between members of a cooperative corporation, whose members consist only of physicians and surgeons licensed in Hawaii, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1977.)

ACT 183

S.B. NO. 244

A Bill for an Act Relating to Safety Equipment for Motorcycles and Motor Scooters.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-81, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 286-81 Motorcycle, motor scooter, etc.; protective devices.** No person shall:

- (1) Operate a motorcycle or motor scooter, on any highway in the State unless he and any passenger he carries on the motorcycle or motor scooter wears (A) safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and (B) any other protective devices, other than a safety helmet, required by rules and regulations adopted by the state highway safety coordinator. For the purpose of meeting the requirements of this paragraph, a required device must meet the specifications and requirements established by rules and regulations adopted by the highway safety coordinator.
- (2) Lease or rent a motorcycle or motor scooter to another person unless he furnished (A) safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and (B) any other protective devices required by the rules and regulations adopted by the highway safety coordinator for the use of the person or persons intending to operate or ride as a passenger on the motorcycle or motor scooter, provided that any person to whom a motorcycle or motor scooter is leased or rented may furnish for his own use the protective devices required by this part. For the purposes of meeting the requirements of this paragraph, a required device must meet the specifications and requirements established by rules and regulations adopted by the state highway safety coordinator.
- (3) Sell or offer for sale or furnish any safety helmet, safety glasses, goggles, face shield, windscreen, windshield, or other protective devices represented to meet the requirements of this part unless the device meets the specifications and requirements established by rules and regulations adopted by the state highway safety coordinator.

No person less than eighteen years of age shall operate or ride as a

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\*Edited accordingly.

passenger on a motorcycle or motor scooter on any highway in the State unless he wears a safety helmet securely fastened with a chin strap.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1977.)

ACT 184

S.B. NO. 563

A Bill for an Act Relating to Vehicle Weight.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-35, Hawaii Revised Statutes, is amended to read:

**"Sec. 291-35 Gross weight, axle, and wheel loads.** No motor vehicle or other power vehicle or combination of such vehicles equipped wholly with pneumatic tires, which has a total gross weight, including vehicle and load, an axle load, or a wheel load in excess of the limits set forth in this section shall be operated or moved upon any public road, street, or highway within the State, provided, that the maximum gross weight, axle loads, and wheel loads allowed under this section shall be inapplicable when its application would adversely affect the receipt of federal funds for highway purposes; and provided further, that no vehicle or combination of vehicles shall be operated on or moved over any bridge or other highway structure if the total gross weight, including vehicle and load, exceeds the posted maximum gross load limitation for the bridge or other highway structure.

- (1) The total gross weight, in pounds, imposed on any public road, street, or highway within the State by any group of two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed the following when the distance between the first and last axles of the group under consideration is:
  - (A) Less than forty-two inches, the weight imposed shall not exceed twenty-four thousand pounds.
  - (B) At least forty-two inches but less than six feet, the weight imposed shall not exceed thirty-four thousand pounds. This grouping of two consecutive axles shall be known as tandem axle.
  - (C) At least six feet and over, the weight imposed shall not exceed that resulting from application of the formula:

$$W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

where W = maximum weight in pounds carried on any group of two or more axles computed to the nearest 500 pounds.

L = Distance in feet between the extremes of any group of two

\*Edited accordingly.

or more consecutive axles, to the nearest foot.

N = number of axles in group under consideration.

Provided that two (2) consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more. Provided also that the single axle weight does not exceed 24,000 pounds, the tandem-axle weight does not exceed 34,000 pounds, and the overall gross weight does not exceed 80,800 pounds.

- (D) At least six feet and over, for any vehicle or combination of vehicles operated on other than interstate highways with a single axle weight not in excess of 24,000 pounds and a tandem-axle weight not in excess of 34,000 pounds, the overall gross weight imposed shall not exceed that determined by the formula:

$$W = 880 (L + 40)$$

where W = maximum weight in pounds rounded to the nearest 500 pounds.

L = Distance in feet between first and last axles of the vehicle or combination of vehicles.

- (2) No vehicle or combination of vehicles shall be used or operated on any public road, street, or highway within the State (A) with a load upon any single or tandem axle or combination of axles which exceeds the carrying capacity of the axles specified by the manufacturer, or (B) with a total weight in excess of its designed capacity as indicated by its designed gross vehicle weights or gross combination weights.
- (3) The total gross weight imposed upon the public road, street, or highway by any single axle shall not exceed twenty-four thousand pounds. For the purpose of this section, axles placed in the same transverse plane which are closer than forty-two inches shall be considered as one axle.
- (4) The total gross weight imposed upon the public road, street, or highway by any one wheel, either single or dual mounting, shall not exceed twelve thousand pounds.
- (5) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may place and maintain signs to limit the gross weight of a vehicle or combination of vehicles traveling over a bridge or other highway structure in the interest of public safety when it is determined through engineering investigation and analysis that the theoretical load carrying capacity of the bridge or structure is less than the maximum gross vehicular weight allowed by this chapter. In determining the weight limits and in posting the weight limit signs, the director or the county engineer need not comply with rule-making provisions of chapter 91; provided that if any person objects to the weight limits, the person may object to the rule as provided in chapter 91."

SECTION 2. Section 291-36, Hawaii Revised Statutes, is amended to read:

**"Sec. 291-36 Exceptions.** (a) The director of transportation in the case of state highways, or the county engineer, in the case of county roads, and streets, may, upon application in writing, issue a written permit authorizing the applicant to operate or move a vehicle or combination of vehicles, self-propelled construction or farm equipment or special mobile equipment of dimensions or weights, including loads or both, which exceed the limits set in sections 291-34 and 291-35.

(b) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may issue a permit authorizing the applicant to operate vehicles or combinations of vehicles which exceed the limits set forth in section 291-35 when carrying products from the place where they are harvested or stored to the place where they are processed or used.

(c) The application for any such permit shall specifically describe the vehicle or combination of vehicles, the self-propelled construction or farm equipment, the load to be operated or moved, the particular highways over which the permit to operate is requested and whether such permit is requested for a single trip or for continuous operation.

(d) The director of transportation or county engineer may if he determines that adequate precautions will be taken to protect persons and property issue the permit and may in the permit limit the number of trips, establish seasonal or other time limitations during which the permit is valid, prescribe conditions as to route, equipment, speed, escort vehicles, safety measures, or otherwise limit or prescribe conditions of operation under such permit to assure against injury to person and undue damage to the road foundations, surfaces, or structures. The issuing authority may also require such undertaking or other security as may be deemed necessary to protect the highways and bridges from damage, or to provide indemnity for any injury resulting from such operation. The permit shall be valid for the period specified or unless sooner revoked by the issuing authority.

(e) Every such permit shall be carried in the vehicle or combination of vehicles or the self-propelled construction or farm equipment to which it refers and shall be open to inspection of any peace officer or traffic officer or employee charged with the care or protection of the highways.

(f) The owner of any vehicle or combination of vehicles or self-propelled construction or farm equipment found operating in violation of the terms or conditions of any permit or over sections of the highway not covered by the permit shall be subject to the penalties provided in section 291-37.

(g) The restrictions of sections 291-34 and 291-35 shall not apply to the operation of motor vehicles on roads now under the control of the counties where a private individual or corporation actually maintains the county road or roads under an agreement in writing filed with the respective county or city council. The agreement shall also provide that the individual or corporation shall repair all damages caused to such roads by vehicles or other self-propelled equipment belonging to or under the control of the individual or corporation and upon failure of the individual or corporation to repair such road or roads as provided in such agreement, the county may repair such damages and charge the

cost thereof to and collect the same from the individual or corporation.

(h) Nothing in this chapter shall prevent motor vehicles with a width of greater than nine feet, including load, from crossing any public road, street, or highway within the State.

(i) No provision herein shall be so construed as to prevent the passage of ordinances by any county which impose restrictions more severe in nature.

(j) A fee of \$2.50 shall be charged for each per trip permit or \$25 for each per annual permit issued by the director of transportation or the county engineer and such fee shall be deposited in the state or respective county's account for special funds for highways."

SECTION 3. Section 291-37, Hawaii Revised Statutes, is amended to read:

**"Sec. 291-37 Penalties.** (a) Any person guilty of omitting any of the required acts, or committing any of the prohibited acts of this chapter, or the rules adopted or amended shall be guilty of a violation of this chapter and may be fined not less than \$25 nor more than \$500. For the purpose of the imposition of a fine or penalty herein, evidence of prior offenses shall be admissible.

(b) When a vehicle or combination of vehicles including load is found to be in violation of any provision contained in section 291-33 to 291-36, and the operator of such vehicle or combination of vehicles is a subordinate or employee, the courts shall take judicial notice of this relative subordinate position and, conditions warranting, hold the operator harmless and impose the applicable penalties against the owner of the vehicle or combination of vehicles. The owner of the vehicle or combination of vehicles shall mean persons or officers of firms or corporations, who owns the transporting vehicle or who operates the vehicle under a bona fide lease agreement."

SECTION 4. Chapter 291, Hawaii Revised Statutes, is amended by adding the following new section to be appropriately designated to read:

**"Sec. 291- Enforcement.** (a) Every police officer shall enforce compliance with sections 291-33 to 291-36, with the technical assistance of the department of transportation and the department of agriculture. In the enforcement of sections 291-34 to 291-36 such officers may require the driver of a vehicle to stop and submit to:

- (1) The measurement of the dimensions of the vehicle and load;
- (2) The examination of the certificate of weight; and
- (3) The weighing of vehicles and load by means of either portable or stationary scales if such scales are within two miles of the place where the vehicle is stopped.

(b) The department of transportation and the department of agriculture are authorized to provide the necessary technical assistance to police officers to determine compliance or noncompliance with sections 291-34 to 291-36. Whenever the department of transportation or the division of weights and measures determines that the size or weight of a vehicle does not comply with sections 291-34 to 291-36, the police officers may require the driver to move the vehicle to a suitable place and to remain there until the vehicle and load are brought into compliance with the limits prescribed by this chapter. If any of the load must be removed from the vehicle in order to comply with sections 291-34 to

## ACT 185

291-36, the removal and all risks caused by or resulting from the removal shall be the responsibility of the owner or operator of the vehicle.

(c) Notwithstanding any other provisions of this chapter, no enforcing officer shall issue a citation for violation of the provisions set forth in section 291-35 unless the violator exceeds the applicable maximum weight by more than five per cent.

(d) Police officers shall issue citations to any person violating sections 291-33 to 291-36.

(e) The driver of any vehicle who fails or refuses to stop and submit the vehicle and load to measuring or weighing when directed by a police officer or who fails or refuses to otherwise comply with this section, shall be fined as provided in section 291-37."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 7, 1977.)

## ACT 185

H.B. NO. 515

A Bill for an Act Relating to Speared Fish.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-25, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) It shall be unlawful for any person to sell or offer to sell any turtle or fish other than sharks, u'u, uhu, and kumu taken or killed with a spear, provided that turtles or fish may be lawfully taken or killed with a spear for home consumption only."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1977.)

## ACT 186

S.B. NO. 574

A Bill for an Act Relating to Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 79-14, Hawaii Revised Statutes, is hereby amended to read:

**"Sec. 79-14 Leave for employee summoned as witness.** Any provisions of the law to the contrary notwithstanding, any officer or employee of the State or

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\*Edited accordingly.

its political subdivisions who is summoned as a juror or witness in any judicial proceeding, subject to his claim for exemption from jury duty as in the law provided, shall be entitled to leave of absence with pay for the period required for such service. Any such officer or employee who serves as a juror or witness and who receives a fee or mileage allowance shall not suffer the loss of such monies or have it off-set against his salary account. No such officer or employee who is summoned as a witness in a proceeding involving or arising from his outside employment or his personal business affairs shall be entitled to have his absence credited to the leave with pay provided in this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

## ACT 187

H.B. NO. 78

A Bill for an Act Relating to Basic Skills and Real-Life Skills in the Public Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to provide for the establishment of a citizens advisory committee on basic skills and real-life skills to advise the legislature on the kinds of skills that students graduating from public schools should possess. The legislature finds that many adults and young people lack proficiency in the basic skills of reading, writing, and computation and are unable to successfully complete those tasks which are common to everyday life, such as the selection of the most economical loan, the accurate completion of an income tax return, the accurate balancing of a checking account, the most effective answers to job notices, and the understanding of such contracts as standard rental and purchase agreements. The widespread inability of both the adult and young adult population to adequately perform such tasks has led the legislature to conclude that the teaching of basic skills and their application to real-life situations must be improved. Moreover, the increasing public demand for a minimum level of demonstrated competency as a condition for graduation from high school must be acknowledged. The legislature believes that the establishment and achievement of minimum competencies in the basic skills and the performance of practical tasks are urgent and necessary if students are to function adequately as consumers and citizens in the real world.

SECTION 2. There is hereby created a citizens advisory committee which shall advise the legislature on the kinds of skills and the levels of proficiency which are necessary to enable the graduates of public schools to function adequately in the adult world.

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\*Edited accordingly.

The committee shall be composed of eleven members appointed by the president of the senate and the speaker of the house of representatives. The committee shall elect a chairman and vice-chairman from among its members. A majority of the members of the committee shall constitute a quorum.

Members of the committee shall serve without compensation.

SECTION 3. The committee shall submit a report of its findings and recommendations to the legislature within ten days after the convening of the 1978 session of the legislature. Ninety days after the submission of its report to the legislature, the committee shall cease to exist.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

ACT 188

H.B. NO. 122

A Bill for an Act Relating to Coastal Zone Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and Purpose.** The legislature finds that Congress has enacted the Coastal Zone Management Act of 1972, Public Law 92-583, as amended, which recognizes the national interest in the effective planning, management, beneficial use, protection, and development of the coastal zones of the several states.

It is a purpose of this Act, to authorize a Hawaii state coastal zone management program that complies with the requirements of the National Coastal Zone Management Act. However, the controlling purpose of this Act is to provide for the effective management, beneficial use, protection, and development of the coastal zone. Where Hawaii's unique geographical and political circumstances result in the necessity of choosing between the intent of the federal legislation and specific requirements the purpose of this Act shall control.

The legislature further finds that Hawaii's environment is both undermanaged and overregulated; that new regulatory mechanisms must not be added onto, but rather combined with, the existing systems; and that the counties have shown their ability and willingness to play a constructive role in coastal zone management by their actions under chapter 205A, part II, Hawaii Revised Statutes.

SECTION 2. **Repeal.** Part I of chapter 205A, Hawaii Revised Statutes, is repealed.

SECTION 3. Chapter 205A, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

**"PART I. COASTAL ZONE MANAGEMENT**

**Sec. 205A-1 Definitions.** As used in this part, unless the context otherwise requires:

(1) "Agency" means any agency, board, commission, department, or

- officer of a county government or the State government;
- (2) "Authority" means the authority administering chapter 205A, Hawaii Revised Statutes, at the time of the effective date of this Act.
- (3) "Coastal zone management area" means the special management area after compliance pursuant to section 205A-23 of this chapter and as defined in part II of this chapter.
- (4) "Coastal zone management program" means the coastal zone management program as provided by this part;
- (5) "Department" means the department of planning and economic development.
- (6) "Development" means the development as defined in part II of this chapter.
- (7) "Land" means the earth, water, and air above, below, or on the surface;
- (8) "Lead agency" means the department of planning and economic development;
- (9) "Person" means an individual, corporation, or partnership, and an organization or association, whether or not incorporated.
- (10) "Shoreline" means the shoreline as defined in part II of this chapter.

**Sec. 205A-2 Coastal Zone Management Program; Objectives and policies.**

(a) The objectives and policies in this section shall apply to both parts I and II of this chapter.

(b) Objectives.

- (1) Recreational resources;
  - (A) Provide coastal recreational opportunities accessible to the public.
- (2) Historic resources;
  - (A) Protect, preserve, and, where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- (3) Scenic and open space resources;
  - (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- (4) Coastal ecosystems;
  - (A) Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
- (5) Economic uses;
  - (A) Provide public or private facilities and improvements important to the State's economy in suitable locations.
- (6) Coastal hazards;
  - (A) Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, and subsidence.
- (7) Managing development;
  - (A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

(c) Policies.

- (1) Recreational resources;

- (A) Improve coordination and funding of coastal recreation planning and management; and
- (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
  - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
  - (ii) Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites and sandy beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
  - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
  - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
  - (v) Encouraging expanded public recreational use of county, State, and federally owned or controlled shoreline lands and waters having recreational value;
  - (vi) Adopting water quality standards and regulating point and non-point sources of pollution to protect and where feasible, restore the recreational value of coastal waters;
  - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, artificial reefs for surfing and fishing; and
  - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, county planning commissions; and crediting such dedication against the requirements of section 46-6.
- (2) Historic resources;
  - (A) Identify and analyze significant archaeological resources;
  - (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
  - (C) Support State goals for protection, restoration, interpretation, and display of historic resources.
- (3) Scenic and open space resources;
  - (A) Identify valued scenic resources in the coastal zone management area;
  - (B) Insure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
  - (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and

- (D) Encourage those developments which are not coastal dependent to locate in inland areas.
- (4) Coastal Ecosystems;
  - (A) Improve the technical basis for natural resource management;
  - (B) Preserve valuable coastal ecosystems of significant biological or economic importance;
  - (C) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
  - (D) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate State water quality standards.
- (5) Economic uses;
  - (A) Concentrate in appropriate areas the location of coastal dependent development necessary to the State's economy;
  - (B) Insure that coastal dependent development such as harbors and ports, visitor industry facilities, and energy generating facilities are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
  - (C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
    - (i) Utilization of presently designated locations is not feasible;
    - (ii) Adverse environmental effects are minimized; and
    - (iii) Important to the State's economy.
- (6) Coastal hazards;
  - (A) Develop and communicate adequate information on storm wave, tsunami, flood, erosion, and subsidence hazard;
  - (B) Control development in areas subject to storm wave, tsunami, flood, erosion, and subsidence hazard;
  - (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program; and
  - (D) Prevent coastal flooding from inland projects.
- (7) Managing development;
  - (A) Effectively utilize and implement existing law to the maximum extent possible in managing present and future coastal zone development;
  - (B) Facilitate timely processing of application for development permits and resolve overlapping or conflicting permit requirements; and
  - (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life-cycle

and in terms understandable to the general public to facilitate public participation in the planning and review process.

**Sec. 205A-3 Lead Agency.** The lead agency shall:

- (1) Receive, disburse, use, expend, and account for all funds that are made available by the United States and the State for the coastal zone management program;
- (2) Provide support and assistance in the administration of the state coastal zone management program;
- (3) Review federal programs, permits, licenses and development proposals for consistency with the coastal zone management program;
- (4) In consultation with the counties and the general public prepare guidelines in furtherance of the objectives and policies of the Act to be submitted 20 days prior to the convening of the 1978 Regular Session of the Legislature for review, modification and enactment by the Legislature.
- (5) Conduct a continuing review of the administration of the coastal zone management program and of the compliance of State and county agencies;
- (6) Facilitate public participation in the coastal zone management program;
- (7) Review State programs within the coastal zone management area from the shoreline to the seaward limit of the State's jurisdiction for consistency with the coastal zone management program; and
- (8) Prepare an annual report to the governor and the legislature which shall include recommendations for enactment of any legislation necessary to require any agency to comply with the objectives and policies of this chapter and the guidelines enacted by the legislature.

**Sec. 205A-4 Implementation of objectives, policies, and guidelines.** (a) In implementing the objectives of the coastal zone management program full consideration shall be given to ecological, cultural, historic, and esthetic values as well as to needs for economic development.

(b) The objectives and policies of this chapter and the guidelines enacted by the legislature shall be binding upon actions within the coastal zone management area by all agencies.

**Sec. 205A-5 Compliance.** Within two years of the effective date of this chapter, all agencies shall amend their regulations, as may be necessary, to comply with the objectives, and policies of this chapter and the guidelines enacted by the Legislature.

**Sec. 205A-6 Cause of action.** (a) Subject to chapters 661 and 662, Hawaii Revised Statutes, any person or agency may commence a civil action alleging that any agency:

- (1) Is not in compliance with one or more of the objectives, policies, and guidelines provided or authorized by this Act; or
- (2) Has failed to perform any act or duty required to be performed under this Act; or

(3) In exercising any duty required to be performed under this Act, has not complied with the provisions of this Act.

(b) In any action brought under this section, the department, if not a party, shall intervene as a matter of right.

(c) A court, in any action brought under this section, shall have jurisdiction to provide any relief as may be appropriate, including a temporary restraining order or preliminary injunction.

(d) Any action brought under this section shall be commenced within sixty days of the act which is the basis of the action.

(e) Nothing in this section shall restrict any right that any person may have to assert any other claim or bring any other action."

SECTION 4. Section 5, Act 176, Session Laws of Hawaii 1975, is amended to read as follows:

"SECTION 5. This part shall take effect upon its approval."

SECTION 5. Section 205A-21, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 205A-21 Findings and Purposes.** The legislature finds that, special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided. The legislature finds and declares that it is the State policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii."

SECTION 6. Section 205A-22, Hawaii Revised Statutes, is amended by amending one definition and adding three new definitions to be appropriately designated and to read:

"(1) "Authority" means the authority administering chapter 205A, Hawaii Revised Statutes, at the time of the effective date of this Act.

(7) "Lead agency" means the department of planning and economic development.

(8) "Coastal zone management area" means the special management area after compliance pursuant to section 205A-23 of this part.

(9) "Coastal zone management program" means the coastal zone management program as provided in this chapter."

SECTION 7. Section 205A-23, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 205A-23 County Area Boundaries.** (a) Each county shall, after holding public hearings, provide for the delineation of the boundary of the special management area of the county on maps of appropriate scale. Copies of such maps shall be filed with the authority prior to December 1, 1975. The special management area in each county shall be as shown on such maps filed with the authority as of the effective date of this Act.

(b) Within two years of the effective date of this Act, the authority shall review and amend as necessary its special management area boundaries, subject to lead agency review as to compliance with the objectives and policies of this

chapter and the guidelines enacted by the legislature. Copies of the amended maps shall be filed with the authority and the lead agency.

(c) After determination by the lead agency that there is compliance pursuant to section 205A-5, the special management areas shall be the coastal zone management areas."

SECTION 8. Section 205A-24, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 205A-25, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 205A-26, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 205A-26 Guidelines.** (a) In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:

- (1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:
  - (A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles.
  - (B) Adequate and properly located public recreation areas and wildlife preserves are reserved.
  - (C) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon special management area resources.
  - (D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.
- (2) No development shall be approved unless the authority has first found:
  - (A) That the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is clearly outweighed by public health and safety. Such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options; and
  - (B) That the development is consistent with the findings and policies set forth in this part.
- (3) The authority shall seek to minimize, where reasonable:
  - (A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon.
  - (B) Any development which would reduce the size of any beach or other area usable for public recreation.
  - (C) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide line where there is no beach.
  - (D) Any development which would substantially interfere with or

detract from the line of sight toward the sea from the state highway nearest the coast.

- (E) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land.

(b) Guidelines adopted by the authority shall be consistent with the coastal zone management program objectives, and policies of this chapter and the guidelines enacted by the Legislature."

SECTION 11. Section 205A-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority in each county shall adopt, prior to December 1, 1975 and may amend pursuant to chapter 91, the rules, regulations and procedures necessary for application of permits and hearings. The authority may require a reasonable filing fee. The fee collected shall be used for the purposes set forth herein."

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 13. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

## ACT 189

H.B. NO. 171

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended to read as follows:

- (1) By amending Section 11-13 to read:

"**Sec. 11-13 Rules for determining residency.** For the purpose of this title, there can be only one residence for an individual, but in determining residency, a person may treat himself separate from his spouse. The following rules shall determine residency for election purposes only:

- (1) The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return;
- (2) A person does not gain residence in any precinct into which he comes without the present intention of establishing his permanent dwelling place within such precinct;
- (3) If a person resides with his family in one place, and does business in another, the former is his place of residence; but any person having a family, who establishes his dwelling place other than with his family, with the intention of remaining there shall be considered a resident where he has established such dwelling place;
- (4) The mere intention to acquire a new residence without physical

\*Edited accordingly.

presence at such place, does not establish residency, neither does mere physical presence without the concurrent present intention to establish such place as his residence.

- (5) A person does not gain or lose a residence solely by reason of his presence or absence while employed in the service of the United States or of this State, or while a student of an institution of learning, or while kept in an institution or asylum, or while confined in a prison;
- (6) No member of the armed forces of the United States, his spouse or his dependent is a resident of this State solely by reason of being stationed in the State;
- (7) A person loses his residence in this State if he votes in an election held in another state by absentee ballot or in person.

In case of question, final determination of residence shall be made by the clerk, subject to appeal to the board of registration under part III of this chapter."

- (2) By amending Section 11-14 to read:

**"Sec. 11-14 General county register; restrictions in use.** (a) The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the name, address, and primary ballot selection data essential for election purposes. Additional information required by section 11-15 may be included in the register at the discretion of the clerk. The voter's name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall, at all times during business hours, be open to public inspection, and shall be a public record.

(b) In all primary and special primary elections held in 1970 and subsequently the clerk shall include in the general county register information to show the primary or special primary ballot selected by each of the voters at the next preceding primary or special primary election, or the registered change of primary or special primary ballot selection by any voter. Newly registered voters, those who have failed to select a partisan or nonpartisan primary or special primary ballot since the 1968 primary which shall include those who voted in a separate ballot for the board of education only, those who voted for a disqualified party, and those who reregistered after having their names removed from the register shall have no such information recorded.

(c) The affidavits filed under section 11-15 and the general county register may be copied, and the clerk may release voter lists and tabulating cards or computer tapes containing data furnished in the affidavit, pursuant to ordinances promulgated by the respective county councils.

(d) Voter registration information which is collected and maintained by the clerk of each county may be transmitted to a central file for the purpose of correlating registration data to prevent or detect duplicate voter registrations and for the compilation of election reports."

- (3) By amending Section 11-24 to read:

**"Sec. 11-24 Closing register; list of voters.** At 4:30 p.m. on the thirtieth day prior to each primary, special primary or special election (but if such day is a Saturday, Sunday, or holiday then at 4:30 on the first working day immediately

thereafter), the general county register shall be closed to registration for persons seeking to vote at such a primary, special primary or special election and remain closed to such registration until after the election, subject to change only as provided in sections 11-22, 11-25, 11-26, and this section.

Notwithstanding the closing of the register for registration to vote at the primary or special primary election, the register shall remain open for the registration of persons seeking to vote at the general or special election, until 4:30 p.m. on the thirtieth day prior to the general or special general election (but if such day is on Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately thereafter), at the end of which period the general county register shall be closed to registration and remain closed until after the general or special general election next following, subject to change only as provided in sections 11-22, 11-25, and 11-26.

Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. In primary and special primary elections the list shall include the party affiliation or nonpartisanship of the voter, if so contained in the general county register. The list shall be available for inspection at the office of the county clerk prior to election day. On election day the precinct officials shall post the list at the precinct polling place."

(4) By amending Section 11-65 to read:

**"Sec. 11-65 Determination of party disqualification; notice of disqualification.** Not later than 4:30 p.m. on the one hundred twentieth day after a general election, the chief election officer shall determine which parties were qualified to participate in the last general election, but which have become disqualified to participate in the forthcoming elections. Notice of intention to disqualify shall be served by certified or registered mail on the chairman of the state central committee or in the absence of the chairman, any officer of the central committee of the party, as shown by the records of the chief election officer. In addition, notice of intention to disqualify shall also be given by publication in a newspaper of general circulation.

If an officer of the party whose name is on file with the chief election officer desires a hearing on the notice of intention to disqualify, he shall, not later than 4:30 p.m. on the tenth day after service by mail or not later than 4:30 p.m. on the tenth day after the last day upon which the notice is published in any county, whichever is later, file an affidavit with the chief election officer setting forth facts showing the reasons why the party should not be disqualified. The chief election officer shall call a hearing not later than twenty days following receipt of the affidavit. He shall notify by certified or registered mail the officer of the party who filed the affidavit of the date, time and place of the hearing. In addition, notice of the hearing shall be published in a newspaper of general circulation not later than five days prior to the day of the hearing. The chief election officer shall render his decision not later than 4:30 p.m. on the seventh day following the hearing. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. A party thus disqualified shall have the right to requalify as a new party by following the procedures of section 11-62."

(5) By amending Section 11-72 to read:

**"Sec. 11-72 Precinct officials; submission of names and assignment; vacancies.** All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the close of filing for any primary, special primary or special election. All precinct officials shall be able to read and write the English language. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons.

In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct or representative district are not readily available to serve, they may be chosen from without the precinct or representative district.
- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct.
- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed of nomination in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairman of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
  - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice-president, United States senator, United States representative, governor and lieutenant governor, state senator, state representative, and board of education.
  - (B) In the event that a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subdivision (A).
  - (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
  - (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as a precinct official the chief election officer shall, so far as reasonably practicable,

appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party of a precinct official the chief election officer shall use first, the party membership list; then, the primary registration; then, the person's word for his party affiliation."

(6) By amending Section 11-77 to read:

**"Sec. 11-77 Appointment of watchers; service.** (a) Each qualified political party shall be entitled to appoint no more than one watcher in each precinct and absentee polling place in which the candidates of such party are on the ballot. Each party shall submit its list of watchers not later than 4:30 p.m. on the tenth day prior to any election. All watchers shall serve without expense to the State or county. All watchers so appointed shall be registered voters. No person shall serve as a watcher who could not qualify to serve as a precinct official under section 11-72(3).

(b) Each watcher shall be provided with identification from the chief election officer, or by the clerk in the case of county elections, stating his name and the name of the party he represents. On election day the watcher shall present his identification to the chairman of precinct officials of the precinct or precincts where he is to serve.

(c) All watchers for precincts shall be permitted to observe the conduct of the election in the precinct. The watchers may remain in the precinct as long as the precinct is in operation subject to section 19-6.

(d) The watcher shall call the attention of the chairman to any violations of the election laws that he observes. After his attention is called to the violation the chairman shall make an attempt to correct such violation. If the chairman fails to correct the violation, the watcher may appeal to the clerk of the county.

(e) The watchers shall be permitted to observe the operations of the absentee polling place. Any violation of the election laws shall be reported to the clerk."

(7) By amending Section 11-112 to read:

**"Sec. 11-112 Contents of ballot.** A ballot shall contain the names of the candidates, their party affiliation or nonpartisanship, the offices for which they are running, and the district in which the election is being held. The chief election officer, at his discretion, may have a background design imprinted onto the ballot. When the electronic voting system is used, the ballot may have pre-punched codes and printed information which identify the voting districts and precincts to facilitate the electronic data processing of these ballots. The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time his nomination papers are filed. Candidates' names, including the Hawaiian or English equivalent or nickname, shall be set on one line. In multirace districts the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where such number is less than the seats available.

A ballot shall bear no word, motto, device, sign, or symbol other than allowed in this title."

(8) By amending Section 11-113 to read:

**"Sec. 11-113 Presidential ballots.** (a) In presidential elections, the names

of the candidates for president and vice president shall be used on the ballot in lieu of the names of the presidential electors, and the votes cast for president and vice president of each political party shall be counted for the presidential electors and alternates nominated by each political party.

A "national party" as used in this section shall mean a party established and admitted to the ballot in at least one state other than Hawaii or one which is determined by the chief election officer to be making a bona fide effort to become a national party. If there is no national party or the national and state parties or factions in either the national or state party do not agree on the presidential and vice presidential candidates, the chief election officer may determine which candidates' names shall be placed on the ballot or may leave the candidates' names off the ballot completely.

(b) All candidates for president and vice president of the United States shall be qualified for inclusion on the general election ballot under either of the following procedures:

- (1) In the case of candidates of political parties which have been qualified to place candidates on the primary and general election ballots, the appropriate official of such party shall file a sworn application with the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the general election, which shall include:
  - (A) The name and address of each of the two candidates;
  - (B) A statement that each candidate is legally qualified to serve under the provisions of the United States Constitution;
  - (C) A statement that the candidates are the duly chosen candidates of both the state and the national party, giving the time, place and manner of such selection.
- (2) In the case of candidates of parties or groups not qualified to place candidates on the primary or general election ballots, the person desiring to place such names on the general election ballot shall file with the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the general election:
  - (A) A sworn application which shall include the information required under (1), (A) and (B) above, and (C) where applicable;
  - (B) A petition which shall be upon the form prescribed and provided by the chief election officer containing the signatures of currently registered voters which constitute not less than one per cent of the votes cast in the State at the last general election. The petition shall contain the names of the candidates, a statement that the persons signing intend to support such candidates, the address of each signatory, the date of his signature and other information as determined by the chief election officer.

Each applicant, and the candidates named, shall be notified in writing of his eligibility or disqualification for placement on the ballot not later than 4:30 p.m. on the tenth day after filing or not later than 4:30 p.m. on the fiftieth day prior to the presidential election whichever is less.

If the applicant, or any other party, individual or group with a candidate on the presidential ballot, objects to the finding of eligibility or disqualification he or they may, not later than 4:30 p.m. on the fifth day after the finding, file a

request in writing with the chief election officer for a hearing on the question. Such hearing will be called not later than 4:30 p.m. on the tenth day after the receipt of the request and will be conducted in accord with chapter 91. A decision will be issued not later than 4:30 p.m. on the fifth day after the conclusion of the hearing."

(9) By amending Section 11-115 to read:

**"Sec. 11-115 Arrangement of names on the ballot.** The names of the candidates shall be placed upon the ballot for their respective offices in alphabetical order except as provided in section 11-118 and the limitations of the voting system in use, and except for the case of the candidates for vice president and lieutenant governor in the general election whose names shall be placed immediately below the name of the candidate for president or governor of the same political party.

In elections using the paper ballot or electronic voting systems where the names of the candidates are printed and the voter records his vote on the face of the ballot, the following format shall be used: A horizontal line shall be ruled between each candidate's name and the next name, except between the names of presidential and vice presidential candidates and candidates for governor and lieutenant governor of the same political party in the general election. In such case the horizontal line will follow the name of the candidates for vice president and lieutenant governor of the same political party, thereby grouping the candidates for president and vice president and governor and lieutenant governor of the same political party within the same pair of horizontal lines. Immediately after all the names, on the right side of the ballot, two vertical lines shall be ruled, so that in conjunction with the horizontal lines, a box shall be formed opposite each name and its equivalent, if any. In case of the candidates for president and vice president and governor and lieutenant governor of the same political party, only one box shall be formed opposite their set of names. The boxes shall be of sufficient size to give ample room in which to designate the choice of the voter in the manner prescribed for the voting system in use. All of the names upon a ballot shall be placed at a uniform distance from the left edge and close thereto, and shall be of uniform size and print subject to section 11-119."

(10) By amending Section 11-152 to read:

**"Sec. 11-152 Method of counting.** (a) In an election using the paper ballot voting system, immediately after the close of the polls, the chairman of the precinct officials shall open the ballot box. The precinct officials at the precinct shall proceed to count the votes as follows:

- (1) The whole number of ballots shall first be counted to see if their number corresponds with the number of ballots cast as recorded by the precinct officials;
- (2) If the number of ballots corresponds with the number of persons recorded by the precinct officials as having voted, the precinct officials shall then proceed to count the vote cast for each candidate;
- (3) If there are more ballots or less ballots than the record calls for the precinct official shall proceed as directed in section 11-153.
- (b) In those precincts using the electronic voting system, the ballots shall

be taken to the counting center according to the procedure and schedule promulgated by the chief election officer to promote the security of the ballots. In the presence of official observers, counting center employees may start to count the ballots prior to the closing of the polls provided there shall be no printout by the computer or other disclosures of the number of votes cast for a candidate or on a question prior to the closing of the polls.”

SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended to read as follows:

(1) By amending Section 12-6 to read:

“**Sec. 12-6 Nomination papers: time for filing; fees.** Nomination papers shall be filed as follows:

- (1) For members of Congress, State, and county offices, with the chief election officer or clerk in case of county offices not later than 4:30 p.m. on the sixtieth calendar day prior to the primary, special primary, or special election (but if such day is a Saturday, Sunday or holiday then not later than 4:30 p.m. of the first working day immediately preceding); provided that any State candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective clerk. The clerk shall transmit to the office of the chief election officer the State candidate’s declaration of candidacy without delay. However, if a special primary or special election is to be held by a county and the county charter requires that the council shall issue a proclamation calling for the election to be held within a specified period of time, and if that requirement would not allow the filing of nomination papers with the appropriate office by the sixtieth calendar day prior to the day for holding such primary or special election, the council shall establish the deadline for the filing of nomination papers in the proclamation calling for the election.
- (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary, special primary, or special election which shall be paid into the treasury of the State, or county, as the case may be, as a realization:
  - (A) For governor, lieutenant governor, United States senators, and United States representatives—\$75;
  - (B) For mayor—\$50; and
  - (C) For all other offices—\$25.
- (3) Upon the receipt by the chief election officer or the clerk of the nomination paper of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.
- (4) The chief election officer or the clerk shall waive the filing fee in the case of a person who declares himself, by affidavit, to be indigent and who has filed a petition signed by at least one-half of one per cent of the total voters registered at the time of filing in the respective district or districts which correspond to the specific office for which the indigent person is a candidate. This petition shall be submitted on the form prescribed and provided by the chief election officer together

with the nomination paper required by this chapter.

(2) By amending Section 12-8 to read:

**"Sec. 12-8 Nomination papers: challenge; evidentiary hearings and decisions.** (a) All nomination papers filed in conformity with section 12-3 shall be deemed valid unless objection is made thereto by the chief election officer or the clerk in the case of county offices or by a registered voter in writing. Such objection is to be made not later than 4:30 p.m. on the second day after the close of filing except that if such day falls on a Saturday, Sunday, or holiday then the next succeeding working day. In case objection is made, notice thereof shall be given including the placement of the notice in the mail by registered or certified mail to the candidate objected thereto.

(b) The chief election officer or the clerk in the case of county offices shall have the necessary powers and authority to conduct evidentiary hearings and may administer oaths. The hearings shall be held not later than four working days after the objection is made. Nothing in this subsection shall be construed to extend to the candidate a right to an administrative contested case hearing as defined in Hawaii Revised Statutes, section 91-1(5).

(c) All objections shall be decided by the chief election officer or clerk in the case of county offices not later than 4:30 p.m. on the second day after they are made or the second day after the hearing is held. All objections which are upheld shall be placed in writing by the deciding official if so requested by the candidate affected."

SECTION 3. Section 14-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 14-23 Time for election, number to be chosen.** In each presidential election year there shall be elected at large, at the general election, by the voters of the State, as many electors and alternates of president and vice president of the United States as the State is then entitled to elect, in the manner provided under section 11-113. The electors and the alternates must be registered voters of the State. The election shall be conducted and the results thereof determined in conformity with the laws governing general elections except as otherwise provided."

SECTION 4. Section 16-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 16-23 Paper ballot; voting.** Upon receiving the ballot the voter shall proceed into one of the voting booths provided for the purpose, and shall mark his ballot in the manner prescribed in section 16-22.

He shall then leave the booth and deliver the ballot to the precinct official in charge of the ballot boxes. The precinct official shall be sufficiently satisfied that there is but one ballot enclosed, whereupon the ballot shall be immediately dropped into the proper box by the precinct official.

SECTION 5. Chapter 12, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 12- Residency requirements for candidates.** No person shall be a candidate for any primary election unless at the time of the filing of his

nomination papers, he is and shall have been a resident of the district from which he seeks election for a period of at least three months."

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

ACT 190

H.B. NO. 215

A Bill for an Act Relating to Prepaid Health Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 393-33, Hawaii Revised Statutes, is amended to read:

"**Sec. 393-33 Penalties; injunction.** (a) If an employer fails to comply with section 393-11, 393-12, 393-13 or 393-15 he shall pay a penalty of not less than \$25 or \$1 for each employee for every day during which such failure continues, whichever sum is greater. The penalty shall be assessed under rules and regulations promulgated pursuant to chapter 91 and shall be collected by the director and paid into the special fund for premium supplementation established by section 393-41. The director may, for good cause shown, remit all or any part of the penalty.

(b) Any employer, employee, or prepaid health care plan contractor who wilfully fails to comply with any other provision of this chapter or any rule or regulation thereunder may be fined not more than \$200 for each such violation.

(c) Any employer who fails to initiate compliance with the coverage requirements of section 393-11 for a period of thirty days, may be enjoined by the circuit court of the circuit in which his principal place of business is located from carrying on his business any place in the State so long as the default continues, such action for injunction to be prosecuted by the attorney general or any county attorney if so requested by the director."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

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\*Edited accordingly.

## ACT 191

H.B. NO. 817

A Bill for an Act Relating to Collective Bargaining in the Public Sector and Amending Chapter 89, Hawaii Revised Statutes.

SECTION 1. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 89-6 Appropriate bargaining units.** (a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

- (1) Nonsupervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Nonsupervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same salary schedule;
- (6) Educational officers and other personnel of the department of education under the same salary schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) Nonprofessional hospital and institutional workers;
- (11) Firefighters;
- (12) Police officers; and
- (13) Professional and scientific employees, other than registered professional nurses.

Because of the nature of work involved and the essentiality of certain occupations which require specialized training, units (9) through (13) are designated as optional appropriate bargaining units. Employees in any of these optional units may either vote for separate units or for inclusion in their respective units (1) through (4). If a majority of the employees in any optional unit desire to constitute a separate appropriate bargaining unit, supervisory employees may be included in the unit by mutual agreement among supervisory and nonsupervisory employees within the unit; if supervisory employees are excluded, the appropriate bargaining unit for such supervisory employees shall be (2) or (4), as the case may be.

The compensation plans for blue collar positions pursuant to section 77-5 and for white collar positions pursuant to section 77-13, the salary schedules for teachers pursuant to section 297-33 and for educational officers pursuant to section 297-33.1, and the appointment and classification of faculty pursuant to sections 304-11 and 304-13, existing on July 1, 1970, shall be the bases for differentiating blue collar from white collar employees, professional from nonprofessional employees, supervisory from nonsupervisory employees, teachers from educational officers, and faculty from nonfaculty. In differentiating supervisory from nonsupervisory employees, class titles alone shall not be the

basis for determination, but, in addition, the nature of the work, including whether or not a major portion of the working time of a supervisory employee is spent as part of a crew or team with nonsupervisory employees, shall also be considered."

SECTION 2. The Hawaii Revised Statutes, as amended, are further amended by amending the words "Fireman and Policeman" to read "Firefighters and Police Officers" wherever the same appear therein.

SECTION 3. Section 89-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 89-8 Recognition and representation; employee participation.** (a) The employee organization which has been certified by the board as representing the majority of employees in an appropriate bargaining unit shall be the exclusive representative of all employees in the unit. As exclusive representative, it shall have the right to act for and negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership. Any other provision herein to the contrary notwithstanding, whenever two or more employee organizations which have been duly certified by the board as the exclusive representatives of employees in bargaining units merge, combine, or amalgamate or enter into an agreement for common administration or operation of their affairs, all rights and duties of such employee organizations as exclusive representatives of employees in such units shall inure to and shall be discharged by the organization resulting from such merger, combination, amalgamation, or agreement, either alone or with such employee organizations. Election by the employees in the unit involved, and certification by the board of such resulting employee organization shall not be required.

(b) An individual employee may present a grievance at any time to his employer and have the grievance heard without intervention of an employee organization; provided that the exclusive representative is afforded the opportunity to be present at such conferences and that any adjustment made shall not be inconsistent with the terms of an agreement then in effect between the employer and the exclusive representative.

(c) Employee participation in the collective bargaining process conducted by the exclusive representative of the appropriate bargaining unit shall be permitted during regular working hours without loss of regular salary or wages. The number of participants from each bargaining unit with over 2,500 members shall be limited to one member for each five hundred members of the bargaining unit. For bargaining units with less than 2,500 members, there shall be at least five participants, one of whom shall reside in each county; provided that there need not be a participant residing in each county for the bargaining unit established by section 89-6(a)(8). The bargaining unit shall select the participants from representative departments, divisions or sections to minimize interference with the normal operations and service of the departments, divisions or sections."

SECTION 4. Section 89A-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 89A-1 Office of collective bargaining in the state government established.** There shall be established an office of collective bargaining in the office of the governor to assist the governor in negotiating with and entering into written agreements between the public employers and the exclusive representatives on matters of wages, hours and other negotiable terms and conditions of employment.

The position of chief negotiator for the State is hereby established to head the office. The chief negotiator shall be experienced in labor relations. The governor shall appoint and remove the chief negotiator, deputy negotiators, and researcher, who shall not be subject to chapters 76 and 77. The salary of the chief negotiator shall be set by the governor and shall not exceed the salaries of department heads as prescribed in section 26-52(2). The chief negotiator, deputy negotiators, and researcher shall be included in any benefit program generally applicable to the officers and employees of the State. All other employees shall be appointed in accordance with chapters 76 and 77. The chief negotiator shall serve as one of the governor's designated representatives as set forth in section 89-6(b)."

SECTION 5. Employees of the office of collective bargaining, other than the chief negotiator, deputy negotiators and researcher appointed pursuant to section 89A-1 up to the effective date of this Act, shall become civil service employees without loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges and without the necessity of examination upon the effective date of this Act.

SECTION 6. SEVERABILITY. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and each and every other provision thereof shall not be affected thereby.

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

## ACT 192

H.B. NO. 967

A Bill for an Act Relating to the Uniform Probate Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** Under the Uniform Probate Code, upon the death of a person, his real property vests in the persons to whom it is devised by his last will. The devisees are entitled to the real property in accordance with the terms of a probated will. While subject to certain restrictions and limitations, the power of a person to leave property by will is otherwise broad and flexible. With respect

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\*Edited accordingly.

to the disposition of real property, testators have exercised this power to effect subdivision of land in the will for the purpose of devising the subdivided lots to the devisees without proper governmental approval of the subdivision and without conformance with the applicable subdivision laws. The purpose of this Act is to provide that a provision in a will purporting to subdivide a parcel of land and devising the subdivided lots is unenforceable. The devisee under such a devise shall take an undivided interest in the whole parcel of land in the proportion that the interest in the subdivided lot intended to be conveyed to the devisee under the will bears to the aggregate interest of the whole of the parcel of land.

SECTION 2. Act 200, Session Laws of Hawaii 1976, part 9 of the Uniform Probate Code is amended by adding thereto a new section to read as follows:

**"Sec. 3- Distribution of improper devise of real property.** A provision in a will purporting to subdivide a parcel of land, not otherwise lawfully subdivided under existing laws of the county in which the land is situated, and devising the subdivided lots to specific devisees is unenforceable. Under any such purported devise, each of the specific devisees shall have distributed to him an undivided interest in the parcel of land in the ratio that the interest of the purported devise of the subdivided lot or lots to him bears to the aggregate interest of the whole of the parcel of land."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

ACT 193

H.B. NO. 1284

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514-53, Hawaii Revised Statutes, is amended to read:

**"Sec. 514-53 Limitation of action.** No civil or criminal actions shall be brought by the State pursuant to this chapter more than two years after the discovery of the facts upon which such actions are based or ten years after completion of the sales transaction involved, whichever has first occurred."

SECTION 2. Section 514-10, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 514-10 Common profits and expenses.** (a) The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners, including the developer, in proportion to the common interest appurtenant to their respective apartments; provided that in a mixed use project containing apartments for both residential and commercial use, such

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\*Edited accordingly.

charges and distributions may be apportioned in a fair and equitable manner as set forth in the declaration; provided further that all limited common elements costs and expenses, including but not limited to, maintenance, repair, replacement, additions and improvements shall be charged to the owner of the apartment to which the limited common element is appurtenant in an equitable manner as set forth in the declaration.

(b) An apartment owner, including the developer, shall become obligated for the payment of the share of the common expenses allocated to his apartment at the time the certificate of occupancy relating to his apartment is issued by the appropriate county agency; provided that a developer may assume all the actual common expenses in common expenses in a residential project containing no mixed commercial and residential use, by stating in the abstract as required by Act 239, use by stating in the abstract as required by Act 239, Section 1, Session Laws of Hawaii 1976, that the apartment owner shall not be obligated for the payment of his respective share of the common expenses until such time the developer files an amended abstract with the commission which shall provide, that after a date certain, the respective apartment owner shall thereafter be obligated to pay for his respective share of common expenses that is allocated to his apartment. The amended abstract shall be filed at least 30 days in advance with the commission with a copy of the abstract being delivered either by mail or personal delivery after the filing to each of the apartment owners whose maintenance expenses were assumed by the developer."

SECTION 3. Section 514-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 514-15 Issuance of final reports prior to completion of construction.** No final public report may be issued prior to completion of construction of the project unless there is filed with the real estate commission:

- (1) A verified statement showing all costs involved in completing the project, including land payments or lease payments, real property taxes, construction costs, architect, engineering, and attorneys fees, financing costs, provisions for contingency, etc., which must be paid on or before the completion of construction of the building;
- (2) A verified estimate of the time of completion of construction of the total project;
- (3) Satisfactory evidence of sufficient funds to cover the total project cost from purchasers funds, equity funds, interim or permanent loan commitments, or other sources;
- (4) A copy of the executed construction contract;
- (5) Satisfactory evidence of a performance bond of not less than one hundred per cent of the cost of construction;
- (6) If purchasers funds are to be used for construction, an executed copy of the escrow agreement for the trust fund required under section 514-14 for financing construction, which shall expressly provide for:
  - (A) No disbursements by the escrow agent for payment of construction costs unless bills are submitted with the request for such disbursements which have been approved or certified for payment by the

- mortgagee or a financially disinterested person; and
- (B) No disbursements from the balance of the trust fund after payment of construction costs pursuant to the preceding paragraph until the escrow agent receives satisfactory evidence that all mechanics' and materialmen's liens have been cleared, unless sufficient funds are set aside for any bona fide dispute;
- (7) A parking plan to include designated residence parking stalls and guest parking, if any, exclusive of assignment to individual apartments, if parking stalls are to be considered limited common elements."

SECTION 4. Section 514-20.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 514-20.5 Management contracts; developer.** (a) If the developer or any affiliate of the developer acts as the first managing agent for the association of apartment owners following its organization, the contract shall not have a term exceeding one year and shall contain a provision that the contract may be terminated by either party thereto on not more than sixty days' written notice. The identity of the managing agent as the developer or its affiliate shall be disclosed to the association of apartment owners no later than the first meeting of the association. An affiliate of, or person affiliated with, a developer is a person that directly or indirectly controls, is controlled by, or is under common control with, the developer.

(b) A managing agent employed or retained for a condominium project shall provide evidence of a fidelity bond in the minimum amount of \$25,000.

(c) If a project chooses not to have a managing agent, a fidelity bond shall be secured for all individuals handling the funds in the minimum amount \$10,000.

SECTION 5. Section 514-26, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 514-26 Insurance.** (a) The association of apartment owners shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings, in accordance with the as-built condominium plans and specifications, against loss or damage by fire sufficient to provide for the repair or replacement thereof in the event of such loss or damages. Flood insurance shall also be provided under the federal Flood Disaster Protection Act if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development. Exterior glass may be insured at the option of the association of apartment owners. The insurance coverage shall be written on the property in the name of the association of apartment owners. Premiums shall be common expenses. Provision for the insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

(b) Any insurance policy providing the coverage required by subsection (a) shall contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the board of directors

with a written summary, in layman's terms, of the policy. The summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The board of directors shall provide this information to each apartment owner."

SECTION 6. Section 514-39, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 514-39 One year limit.** If the final public report is not issued within one year from the date of issuance of the preliminary report, each purchaser is entitled to refund all moneys paid by the purchaser without further obligation; provided that if the final public report is issued after the one year period and a copy of the final public report is delivered to the purchaser either personally or by registered or certified mail with return receipt requested, notwithstanding any law to the contrary, the purchaser shall have thirty days from the date of delivery to exercise his right of refund and cancellation of obligation, after which period such right shall be deemed waived; provided further, that such waiver shall be effective only if at the time the purchaser receives a copy of the final public report, he is notified in writing of his right of refund and cancellation of obligation and the waiver of such right upon his failure to act within the thirty day period."

SECTION 7. Section 514-41, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 514-41 Copy of public report to be given to prospective purchaser.** The developer of any other person offering any unit in a condominium project prior to completion of its construction shall not enter into a binding contract or agreement for the sale or resale thereof until:

(1) A true copy of the real estate commission's final public report thereon with all supplementary public reports, if any has been issued, has been delivered to the prospective purchaser, either personally or by registered or certified mail with return receipt requested.

(2) The prospective purchaser has been given an opportunity to read the reports, and

(3) The prospective purchaser executes his receipt for the reports; provided that if the prospective purchaser does not execute and return his receipt for the reports within thirty days from the date of delivery of such reports, he shall be deemed to have receipted for the reports; provided further, that such receipt shall be effective only if at the time of the delivery of the reports the prospective purchaser is notified in writing of the fact that he will be deemed to have executed his receipt for the reports upon his failure to act within the thirty day period.

Receipts taken for any public report shall be kept on file in possession of the developer subject to inspection at a reasonable time by the commission or its deputies, for a period of three years from the date the receipt was taken."

SECTION 8. Section 514-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** Subsequent to substantial completion of the project and the recordation of the first conveyance or lease of an apartment in the project to a

bona fide purchaser, and thereafter while the property remains the subject of a horizontal property regime, no lien shall arise or be created against the common elements. Following such completion and first recordation, liens may arise or be created only against the several apartments and their respective common interests.

During such period while (1) the developer retains ownership of any apartment other than

- (i) the mere reservation of legal title under an agreement of sale to a bona fide purchaser; and
- (ii) the apartment in respect of which a binding contract of sale has been entered into with a bona fide purchaser but which has not, at the time of filing of the application of a mechanic's lien, closed escrow; or

(2) Any other person retains ownership of any apartment prior to the first conveyance or lease of such apartment to a bona fide purchaser, mechanics' and materialmen's liens may arise or be created for labor or material furnished in project construction performed before the completion of construction, and such liens shall affect every apartment and its respective common interests so retained until released or until the period for making application for such liens has expired without any such application having been filed."

SECTION 9. If either S.B. No. 330, S.D. 2†, or H.B. 498 is passed by the legislature during this Regular Session of 1977, whether before or after the effective date of this Act, the corresponding provisions of S.B. No. 330, S.D. 2†, or H.B. 498 shall be amended to conform with this Act.

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 11. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

A Bill for an Act Relating to Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 78, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 78- Officers and employees excluded from collective bargaining; adjustment of compensation, hours, terms and conditions of employment, and other benefits.** Any provision of law to the contrary notwithstanding, the compensation, hours of work, benefits, and terms and conditions of employment of public officers and employees, who are excluded from collective bargaining,

†Now Act 98.

\*Edited accordingly.

shall be adjusted by the chief executives of the State or counties, the board of education or the board of regents, provided that for those employees with equivalent or identical positions with public employees within the collective bargaining agreements under chapter 89 such adjustments shall be not less than those granted to those employees within the collective bargaining agreements.

No adjustments in compensation shall be made hereunder for officers or employees whose compensation presently is established by the constitution, statutes or county charters and ordinances, other than chapters 77, 297, or 304.

No adjusted compensation established pursuant to this section shall exceed the compensation established by law as follows:

- (1) For officers and employees covered by chapters 77 and 297, ninety-five per cent of the compensation established by section 26-53 for the first deputy or first assistant; and
- (2) For officers and employees covered by chapter 304, ninety-five per cent of the compensation established by section 26-52(2) for the president of the University of Hawaii; provided that an officer or employee who is receiving on the effective date of this Act a salary in excess of ninety-five per cent of the salary paid to the president of the University of Hawaii, shall continue to receive the salary so long as he remains in the same position or until such time as the salary of the president is sufficiently increased to authorize adjustments to the officer's or employee's salary.

No adjustment in compensation, hours, terms and conditions of employment or benefits shall be established which is in conflict with the system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment, conduct, movement, and separation of public offenders and employees.

The directors of personnel services of the State and counties, the superintendent of education, and the president of the University of Hawaii shall recommend adjustments to the chief executives of the State or counties or to the board of education or the board of regents, respectively. The conference of personnel directors shall confer prior to the submittal of any recommended adjustment by each director to his chief executive. Such adjustments and their effective dates shall be uniform, if practicable, with public employees within the collective bargaining agreements under Chapter 89. Any adjustments adopted by the board of education or the board of regents shall be subject to the approval of the governor.

Any adjustment in compensation, hours, terms and conditions of employment or benefits made pursuant to this section, and any appropriations which are necessary to provide the compensation, hours, terms and conditions of employment and benefits for the employment of the employees covered by this section, shall be subject to approval or rejection as a whole by the appropriate legislative body. Nothing in this section shall be construed to permit the chief executives of the State or counties, the board of education or the board of regents to make any adjustments in compensation, hours, terms and conditions of employment and other benefits, nor to use funds for purposes of this section which have been appropriated for purposes other than for compensation, hours,

terms and conditions of employment and benefits, without the prior approval of the appropriate legislative bodies."

SECTION 2. Section 78-18, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 78-18 Limitation on salary of employees and certain officers.** Except as provided in section 78- , in fixing the compensation of officers and employees in the government service, the appropriate officials shall give due consideration to the limitations prescribed in sections 26-53 and 46-24 and shall fix the salaries of the officers and employees so that such salaries will bear a reasonable relation to the salaries of the department heads and first deputies and first assistants. Anything to the contrary notwithstanding, no subordinate employee, except as provided in section 78- , shall receive after June 2, 1959, a salary which exceeds the salary paid to his department head or to the first deputy or first assistant to the department head; provided that an employee who is receiving on June 2, 1959, a salary in excess of the salary paid to his department head or to the first deputy or first assistant to the department head shall continue to receive the salary so long as he remains in the same position, or until such time as the salaries of his department head or the first deputy or first assistant are sufficiently increased to authorize adjustments to the employee's salary."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

A Bill for an Act Relating to Motor Vehicle Taxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 249- State motor vehicle weight tax, exemptions.** All motor vehicles in the State, in addition to all other fees and taxes levied by this chapter shall be subject to an annual state motor vehicle weight tax. The tax shall be levied by the county director of finance at the rate of 0.45 cents a pound according to the net weight of each motor vehicle as "net weight" is defined in section 249-1; provided that in no case shall the tax assessed and collected be less than \$2.

The tax shall become due and payable on January 1 and shall be paid before April 1 in each year. The fee shall be paid by the owner of each motor vehicle to the director of finance of the county in which the vehicle is registered.

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\*Edited accordingly.

By the fifteenth day of the month following the month in which taxes under this section are collected, the director of finance of each county shall transmit the taxes collected to the state director of finance for deposit into the state highway fund.

All new motor vehicles, otherwise taxable under this section, in stock for purposes of sale, all publicly owned motor vehicles, and all motor vehicles and motorcycles owned by police officers of the State or any county and actually used by them in their travel on official business, shall be exempt from this tax. Passenger cars owned by persons who, by reason of their service disability, have been furnished such cars by the Federal government and have been so certified by the Veterans Administration, shall be likewise exempt from this tax, except that this exemption shall be limited to no more than one motor vehicle of any disabled veteran. Motor vehicles with a net vehicle weight of 6,000 pounds and over shall be likewise exempted from this tax."

SECTION 2. Section 243-4, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Every distributor shall in addition to any other taxes provided by law, pay a license tax to the department of taxation for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by him in the State or imported by the distributor, or acquired by him from persons not licensed distributors, and sold or used by him in the State. Any person who sells or uses any liquid fuel knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon shall pay tax as would have applied to such sale or use by the distributor himself. The rates of tax hereby imposed are as follows:

- (1) For each gallon of diesel oil, 1 cent.
- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, 1 cent.
- (3) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the city and county of Honolulu, or in any county for ultimate use in the city and county of Honolulu 8½ cents state tax, and in addition thereto such amount, to be known as the "city and county of Honolulu fuel tax", as shall be levied pursuant to section 243-5.
- (4) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Hawaii, or in any county for ultimate use in the county of Hawaii 8½ cents state tax, and in addition thereto such amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5.
- (5) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Maui, or in any county for ultimate use in the county of Maui, 8½ cents state tax, and in addition thereto such amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5.
- (6) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Kauai, or in any county for ultimate

mate use in the county of Kauai, 8½ cents state tax, and in addition thereto such amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

If it is shown to the satisfaction of the department, based upon proper records and from such other evidence as the department may require, that liquid fuel other than fuel mentioned in items (1) and (2) is used for agricultural equipment that does not operate upon the public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by this section in excess of 1 cent per gallon. The department shall prescribe rules and regulations to administer for such refunds.

(b) Every distributor of diesel oil shall, in addition to the tax required by subsection (a) of this section, pay a license tax to the department for each gallon of such diesel oil sold or used by him for operating a motor vehicle or motor vehicles upon public highways of the State. The rates of the additional tax hereby imposed are as follows:

- (1) For each gallon of diesel oil so sold in the city and county of Honolulu, or in any other county for ultimate use in the city and county of Honolulu, or used in the city and county of Honolulu, 7½ cents state tax, and in addition thereto such amount, to be known as the "city and county of Honolulu fuel tax", as shall be levied pursuant to section 243-5.
- (2) For each gallon of diesel oil so sold in the county of Hawaii, or in any other county for ultimate use in the county of Hawaii, or used in the county of Hawaii, 7½ cents state tax, and in addition thereto such amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5.
- (3) For each gallon of diesel oil so sold in the county of Maui, or in any other county for ultimate use in the county of Maui, or used in the county of Maui, 7½ cents state tax, and in addition thereto such amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5.
- (4) For each gallon of diesel oil so sold in the county of Kauai, or in any other county for ultimate use in the county of Kauai, or used in the county of Kauai, 7½ cents state tax, and in addition thereto such amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

If any user of diesel oil furnishes a certificate, in such form as the department shall prescribe, to the distributor or the distributor who uses diesel oil signs such certificate, certifying that the diesel oil is for use in operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the tax as provided in paragraphs (1) to (4) of this subsection shall not be applicable. In the event a certificate is not or cannot be furnished and the diesel oil is in fact for use for operating a motor vehicle or motor vehicles in areas other than upon public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by the foregoing paragraphs. The department shall prescribe rules and regulations to administer the refunding of such taxes."

SECTION 3. Section 249- of Section 3, Act 188, Session Laws of Hawaii 1976, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect on July 1, 1977; provided that section 1 shall take effect on January 1, 1978.

(Approved June 8, 1977.)

ACT 196

S.B. NO. 451

A Bill for an Act Relating to Child Care Expenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In 1976 the legislature adopted the then latest federal provisions allowing parents to deduct child care expenses from their income taxes. In 1976 Congress changed the child care expenses deduction to a child care expense credit.

The purpose of this Act is to conform the Hawaii income tax law to the latest federal income tax change in the area of child care expenses.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 235- Credit for child care services.** (a) Allowance of credit. For each resident taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to five per cent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

(b) Application with other credits. The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under this chapter.

(c) Definitions of qualifying individual and employment-related expenses. For purposes of this section:

(1) Qualifying individual. The term "qualifying individual" means:

- (A) A dependent of the taxpayer who is under the age of fifteen and with respect to whom the taxpayer is entitled to a deduction under section 235-54(a),
- (B) A dependent of the taxpayer who is physically or mentally incapable of caring for himself, or
- (C) The spouse of the taxpayer, if he is physically or mentally

\*Edited accordingly.

incapable of caring for himself.

(2) Employment-related expenses.

(A) In general. The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:

- (i) Expenses for household services, and
- (ii) Expenses for the care of a qualifying individual.

(B) Exception. Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1)(A).

(d) Dollar limit on amount creditable. The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed:

- (1) \$2,000 if there is one qualifying individual with respect to the taxpayer for such taxable year, or
- (2) \$4,000 if there are two or more qualifying individuals with respect to the taxpayer for such taxable year.

(e) Earned income limitation.

(1) In general. Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed:

- (A) In the case of an individual who is not married at the close of such year, such individual's earned income for such year, or
- (B) In the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such years.

(2) Special rule for spouse who is a student or incapable of caring for himself. In the case of a spouse who is a student or a qualified individual described in subsection (c)(1)(C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than:

- (A) \$166 if subsection (d)(1) applies for the taxable year, or
- (B) \$333 if subsection (d)(2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

(f) Special rules. For purposes of this section:

(1) Maintaining household. An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

(2) Married couples must file joint return. If the taxpayer is married at the

- close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.
- (3) Marital status. An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered married.
  - (4) Certain married individuals living apart. If:
    - (A) An individual who is married and who files a separate return:
      - (i) Maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and
      - (ii) Furnishes over half of the cost of maintaining such household during the taxable year, and
    - (B) During the last six months of such taxable year such individual's spouse is not a member of such household,
 such individual shall not be considered as married.
  - (5) Special dependency test in case of divorced parents, etc. If:
    - (A) A child (as defined in section 151(e)(3)) of the Internal Revenue Code of 1954, as amended, who is under the age of fifteen or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and
    - (B) Such child is in the custody of one or both of his parents for more than one-half of the calendar year,
 in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subsection (c)(1)(A) or (B), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.
  - (6) Payments to related individuals.
    - (A) In general. Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) of the Internal Revenue Code of 1954, as amended (relating to definition of dependent), or to a dependent described in paragraph (9) of such section.
    - (B) Exception. Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a deduction under section 235-54(a) (relating to deduction for personal exemptions for dependents), but only if the service with respect to which such amount is paid constitutes employment within the meaning of

section 3121(b) of the Internal Revenue Code of 1954, as amended.

(7) Student. The term "student" means an individual who during each of five calendar months during the taxable year is a full-time student at an educational organization.

(8) Educational organization. The term "educational organization" means a school operated by the department of education or licensed under chapter 298, or a university, college, or community college.

(g) Regulations. The director of taxation shall prescribe such regulations under chapter 91 as may be necessary to carry out the purposes of this section."

SECTION 3. Section 235-2.1, Hawaii Revised Statutes, enacted by Act 218, Session Laws of Hawaii 1976, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1976.

(Approved June 9, 1977.)

ACT 197

H.B. NO. 259

A Bill for an Act Relating to Real Estate Brokers and Salesmen.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 467, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read as follows:

"Sec. 467- Employer-employee relationship. Nothing in this chapter or in any of the rules adopted to implement this chapter shall be deemed to create an employer-employee relationship between a real estate broker and his licensees; provided that the commission shall have all power necessary to regulate the relationships, duties and liabilities among real estate brokers and real estate salesmen in order to protect the public."

2. By amending in Section 467-1 the definition of "real estate salesman" to read:

"(3) "Real estate salesman" means any person who, for a compensation or valuable consideration, is employed either directly or indirectly by a real estate broker, or is an independent contractor in association with a real estate broker, to sell or offer to sell, buy or offer to buy, or list, or solicit for prospective purchasers, or who leases or offers to lease, or rents or offers to rent any real estate, or the improvements thereon, for others as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate

\*Edited accordingly.

without the exercise by him of such option and for the purpose or as a means of evading the licensing requirements of this chapter. Every real estate salesman must be under the direction of a broker for all real estate transactions;"

3. Section 467-11 is amended to read:

**"Sec. 467-11 Fees; original license and biennial renewals.** The fee for any license prescribed by this chapter shall be as follows:

- (1) To act as a real estate broker, \$50, \$5 of which shall be deposited in the real estate education fund;
- (2) To act as a real estate salesman, \$50, \$5 of which shall be deposited in the real estate education fund;
- (3) Biennial renewal for broker, \$100, \$10 of which shall be deposited in the real estate education fund;
- (4) Biennial renewal for salesman, \$50, \$10 of which shall be deposited in the real estate education fund;
- (5) To obtain a branch office license, \$50;
- (6) To reinstate a suspended license, \$25;
- (7) Biennial renewal of inactive broker license, \$100, \$10 of which shall be deposited in the real estate education fund;
- (8) Biennial renewal of inactive salesman license, \$50, \$10 of which shall be deposited in the real estate education fund.

A fee of \$10 shall be charged for the reissuance of a lost license, or for the reissuance of license when there has been a change in the licensee's name or for the reissuance of license when there has been a change in the business address, or, in the case of a salesman, when he is either employed by or associated with a different broker.

The biennial renewal fee shall be paid to the real estate commission on or before December 31 of each even-numbered year. Failure, neglect, or refusal of any duly licensed real estate broker or real estate salesman to pay the biennial renewal fee shall constitute a forfeiture of the license of the broker or salesman. The license of the broker or salesman may be restored upon written application therefor and the payment to the commission of the delinquent fee and a penalty fee of \$10.

A broker or salesman may place his license on an inactive status upon payment of the proper fee, and such license may be renewed biennially on or before December 31 of each even-numbered year.

All fees and other moneys collected or received under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

The commission may refund any fee erroneously paid to it under the provisions of this section and section 467-9 when the commission deems it just and equitable."

4. Section 467-13 is amended to read:

**"Sec. 467-13 Delivery of agreement.** When a licensee prepares or has prepared an agreement authorizing the licensee to perform any of the acts for which he is required to hold a license, or when such license secures the signature

of any party or parties to any contract pertaining to such services or transaction, he shall deliver a copy of the agreement or contract to the party or parties signing it, at the time the signature is obtained; provided that only one copy need be delivered to parties signing as cotenants."

5. Section 467-14 is amended to read:

**"Sec. 467-14 Revocation and suspension of licenses.** The real estate commission may revoke any license issued hereunder, or suspend the right of the licensee to use the license, for any of the following causes:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;
- (4) Without first having obtained the written consent so to do of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation for his services from both of such parties;
- (5) When licensee, being a real estate salesman, accepts any commission or other compensation for the performance of any of the acts hereinabove enumerated in the definition of real estate salesman from any person, copartnership, or corporation other than his employer or the broker with whom he associates or, being a real estate broker or salesman, compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesman, acts or attempts to act as a real estate broker or represents, or attempts to represent, any real estate broker other than his employer or the broker with whom he is associated;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a copartnership, permits any member of the copartnership who does not hold a real estate broker's license to actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
- (11) When the licensee, being a real estate salesman, fails to file with the commission a written statement setting forth the name of the real estate broker by whom he is employed or with whom he is associated;

- (12) Violating this chapter or the rules and regulations adopted pursuant thereto;
- (13) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that a licensed broker may pay a commission to a licensed broker of another state if such broker does not conduct in this State any of the negotiations for which a commission is paid;
- (14) Commingling the money or other property of his principal with his own;
- (15) Adjudicated insane or incompetent.

No license shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years."

SECTION 2. Section 467-24, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 467-24 Maximum liability.** Notwithstanding any other provision, the liability of the real estate recovery fund shall not exceed \$40,000 for any one licensee."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1977.)

ACT 198

H.B. NO. 261

A Bill for an Act Relating to the General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-18, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Where insurance agents, including general agents, subagents, or solicitors, who are not employees and are licensed pursuant to chapter 431, or real estate brokers or salesmen, who are not employees and are licensed pursuant to chapter 467, produce commissions which are divided between such general agents, subagents, or solicitors, or between such real estate brokers or salesmen, as the case may be, the tax levied under section 237-13(6), or under section 237-16, shall apply to each such person with respect to his portion of the commissions, and no more."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect on July 1, 1977.

(Approved June 9, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Election Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the state service existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or

- assistant deputy, or assistant defined in paragraph (17);
- (10) Assistant and deputy attorneys general and law clerks;
  - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional and technical personnel of the university;
  - (12) Employees engaged in research projects approved by the governor, for which project federal funds are available, provided the period of employment shall not exceed one year;
  - (13) Positions filled by inmates, kokua, and patients of state institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
  - (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
  - (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
  - (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; and as administrative assistant to the superintendent of education;
  - (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;

- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

SECTION 2. Section 11-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-5 Employees.** The chief election officer may employ a permanent staff, subject to the provisions of chapters 76 and 77, to supervise state elections; maximize registration of eligible voters throughout the State; maintain data concerning registered voters, elections, apportionment, and districting; and to perform other duties as prescribed by law. The chief election officer or county clerk may employ precinct officials and other election employees as he may find necessary, none of whom shall be subject to the provisions of chapters 76 and 77."

SECTION 3. Employees currently not in civil service and occupying the following positions: (1) Director of Elections; (2) Voter Education Coordinator; (3) Voter Registration Coordinator; (4) Elections Logistics Coordinator; (5) Assistant Elections Logistics Coordinator; (6) Elections Accounts Clerk; (7) Elections Secretary I; and (8) Elections Secretary II, shall be converted to civil service status within the meaning of chapters 76 and 77 without the necessity of examination and shall be accorded all the rights, benefits, privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded employees with civil service status. Positions held by such employees shall be allocated to the appropriate classes in the position classification plan and employees affected shall continue to receive at least the same rates of pay despite the change in status; provided that subsequent changes in position classification and pay shall be made pursuant to chapters 76 and 77.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1977.)

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\*Edited accordingly.

## ACT 200

H.B. NO. 929

A Bill for an Act Relating to the Hawaii Food, Drug, and Cosmetic Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 328-1, Hawaii Revised Statutes, is amended by amending the definition of "consumer commodity" to read as follows:

"(12) "Consumer commodity" as herein defined means any food, drug, cosmetic or device as those terms are defined by this part or the Federal Act. Such term shall not include:

- (A) Any meat or meat products or poultry or poultry products, except as these products are sold at retail in stores and restaurant in normal retail quantities, provided that any labeling requirements imposed under authority of this part shall comply with those established by the Secretary of Agriculture, United States Department of Agriculture.
- (B) Any tobacco or tobacco products.
- (C) Any commodity subject to packaging and labelling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide and Rodenticide Act or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat 832-833; 21 USC 151-157), commonly known as the Virus-Serum-Toxin Act;
- (D) Any drug subject to the provisions of Section 503(b)(1) or 506 of the Federal Food, Drug and Cosmetic Act (21 USC 353(b)(1) and 356);
- (E) Any beverage subject to or complying with packaging and labeling requirements imposed under the Federal Alcohol Administration Act (27 USC 201 et seq.); or
- (F) Any commodity subject to the provisions of the Federal Seed Act (7 USC 1551-1610)."

SECTION 2. Section 328-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 328-8 Regulations to be prescribed.** (a) Whenever in the judgment of the department of health such action will promote honesty and fair dealing in the interest of consumers, the department shall prescribe regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill or container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the department shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so prescribed shall conform so far as practicable to the definitions and standards promulgated under authority of the federal act.

(b) Temporary permits now or hereafter granted for interstate shipment of experimental packs of food varying from the requirements of federal definitions

and standards of identity are automatically effective in this State under the conditions provided in such permits. In addition, the director may issue additional permits where they are necessary to the completion or conclusiveness of an otherwise adequate investigation and where the interests of consumers are safeguarded. Such permits shall be subject to such terms and conditions as the director may prescribe.

(c) All regulations and their amendments adopted by the Federal Food and Drug Administration as of the effective date of this subsection under the authority of the Federal Food, Drug, and Cosmetic Act applicable to the General Regulations Relating to Definitions and Standards for Food (21 CFR Part 10), Standards of Quality for Foods for Which There are No Standards of Identity (21 CFR Part 11), Color Additives (21 CFR Part 8), Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act (21 CFR Part 1), Tolerances and Exemptions From Tolerances for Pesticides Chemicals in or on Raw Agricultural Commodities (40 CFR Part 180), Regulations on Food Additives (21 CFR Part 121), Food for Special Dietary Uses (21 CFR Part 125), Human Foods, Current Good Manufacturing Practices (21 CFR Part 128), Fish and Seafood Products (21 CFR Part 128a), Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers (21 CFR Part 128b), Processing and Bottling of Bottled Drinking Water (21 CFR Part 128d); Cosmetic Labeling (21 CFR Part 701), are adopted for the use of the department; provided that when in the director's judgment such action will promote honesty and fair dealing in the interest of consumers, the director may establish such additional rules as may be necessary. All such regulations adopted or amended after the effective date of this subsection shall be adopted under chapter 91."

SECTION 3. Section 328-2.1, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory materials to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1977.)

ACT 201

H.B. NO. 1215

A Bill for an Act Relating to Employees in Certain Exempt Positions of the Department of Planning and Economic Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall relate only to two exempt employees currently employed by the State in the department of planning and economic development who are assigned to permanent positions of the center for science policy and technology assessment.

\*Edited accordingly.

SECTION 2. The employees currently not in civil service who have been employed for at least three years in the center for science policy and technology assessment and who occupy the positions of science and technology officer and science and technology program assistant in the department of planning and economic development shall be converted to permanent civil service status within the meaning of chapters 76 and 77 without the necessity of examination and shall be accorded all the rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded employees with civil service status. Employees so converted shall not suffer a reduction in their pay rate.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1977.)

ACT 202

H.B. NO. 1321

A Bill for an Act Relating to the Hawaii Meat Inspection Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 159-29, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) This chapter requiring inspection of meat or meat products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale at the establishment in normal retail quantities or service of meat or meat products to consumers, provided that the preparation, handling, and storage of meat or meat products is conducted in accordance with the sanitary conditions as the board may prescribe. For the purpose of this section an operation of a type traditionally and usually conducted at a restaurant or similar retail type establishment shall include caterers who deliver or serve meat products in normal retail quantities to consumers and restaurants which operate centralized kitchen facilities servicing their branch establishments where meat or meat products are served in normal retail quantities to consumers provided that only meat or meat products which have been inspected and passed under the provisions of this chapter shall be used in the preparation of meat or meat products by caterers or at a centralized kitchen facility."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Injury to Public Utility Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 269, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 269- Injury to public utility property.** Any person who injures or destroys, through want of proper care, any necessary or useful facility, equipment or property of any public utility shall be liable to the public utility for all damages sustained thereby. The measure of damages to the facility, equipment or property injured or destroyed shall be the cost to repair or replace the property injured or destroyed including direct and allocated costs for labor, materials, supervision, supplies, tools, taxes, transportation, administrative and general expense and other indirect or overhead expenses, less credit, if any, for salvage. The specifying of the measure of damages for the facility, equipment or property shall not preclude the recovery of such other damages occasioned thereby as may be authorized by law."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1977.)

A Bill for an Act Relating to the Handicapped.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that handicapped residents of the State of Hawaii have many needs which have gone unaddressed, and which require appropriate attention and action. There is a governor's committee on the employment of the handicapped which addresses some of the matters of crucial importance to the handicapped. The limited scope of that committee restricts the fuller confrontation of the problems of the handicapped, which are otherwise presently not systematically nor comprehensively considered.

The purpose of this Act is to modify the governor's committee on the employment of the handicapped to broaden its scope to address the broader needs of handicapped persons.

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\*Edited accordingly.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter, to be appropriately designated, and to read as follows:

## **“CHAPTER COMMISSION ON THE HANDICAPPED**

**Sec. -1 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Commission” means the commission on the handicapped.

“Members” means the members of the commission on the handicapped.

**Sec. -2 Commission on the handicapped.** There is established the commission on the handicapped within the office of the governor for administrative purposes, to be composed of twenty-one members to be appointed by the governor for staggered terms subject to section 26-34. The members of the commission shall include at least nine persons who are either handicapped persons representative of various handicapping conditions, parents, or guardians of handicapped persons and shall also include the directors of health, social services, labor and industrial relations, and personnel services, the superintendent of education, and the president of the University of Hawaii who shall be ex-officio nonvoting members. The member appointed shall include at least one resident from each of the counties.

The members shall serve without compensation but shall be reimbursed their necessary and reasonable expenses incurred in the performance of their duties, including travel expenses. The chairman shall be elected annually by the members; provided that only nongovernmental members shall be elected chairman; and provided further that no member may serve as chairman for more than two consecutive years.

**Sec. -3 Powers, duties, functions of the commission.** The commission shall have and perform the following powers, duties, and functions:

- (1) Serve as a central coordinative clearinghouse of public and private activities relating to the handicapped and as repository and disseminator of activities and information relating to the handicapped.
- (2) Review and assess the problems and needs, and the availability, of adequate services and resources for the handicapped in the State of Hawaii with regard but not limited to employment, education, health, social services, recreation, civil rights, public facilities, housing, vocational training and rehabilitation, and other matters pertinent to the well-being and independence of the handicapped.
- (3) Conduct research, studies, and other appropriate activities designed to provide additional information on the handicapped, with particular reference to specific needs of the handicapped, and to publicize the results thereof.
- (4) Advise and make recommendations to the State and the counties on matters relating to the handicapped, and on matters which affect the handicapped, including legislative matters.
- (5) Develop short- and long-term goals in fulfilling the needs of the handicapped, to be undertaken by the commission in facilitating the

coordination of services and programs for the handicapped.

- (6) Educate the public and the handicapped on the problems, needs, potentials, and rights of the handicapped through affirmative public education programs.
- (7) Seek improvements in existing systems to recognize specific needs of the handicapped.
- (8) Serve as public advocate of the handicapped.
- (9) Seek and receive funds and other forms of assistance from public and private sources to be used in providing improved circumstances for the handicapped in Hawaii.
- (10) Initiate and maintain contact with public and private, local and national organizations, agencies, and individuals generally engaging in activities relating to the handicapped, or otherwise interested in the general or specific well-being of the handicapped.
- (11) Administer funds allocated for its work, including disbursement and allocation of funds which may be available from public and private sources; provided that such disbursement and allocation shall be consistent with specific requirements thereof, or in the absence of designated requirements, consistent with the purpose of this chapter. The commission may require, in its discretion, matching participation by the recipients of disbursements and allocations hereunder.

**Sec. -4 Meetings.** All meetings of the commission shall be conducted subject to chapter 92.

**Sec. -5 Annual report.** The commission shall annually report on its activities to the governor and the legislature, and may include recommendations consistent with the purposes of this chapter.

**Sec. -6 Staff.** The commission may hire staff to assist in the performance of its duties; provided that volunteer assistance shall be utilized to the greatest possible extent. The staff of the commission shall be hired without regard to chapters 76 and 77; provided that salaries shall be determined in consultation with the director of personnel services. Hired staff shall be eligible for participation in employee plans generally inuring to the benefit of state employees."

**SECTION 3.** The governor's committee on the employment of the handicapped established by executive order is redesignated as the commission on the handicapped established by this Act, and shall assume the functions prescribed by this Act.

The members presently serving on the governor's committee on the employment of the handicapped shall continue to serve; provided that subsequent appointments to the commission on the handicapped shall conform with the requirements of this Act. The directors of health, social services, labor and industrial relations, and personnel services, the superintendent of education, and the president of the University of Hawaii shall begin their service upon the effective date of the Act.

All officers and employees whose functions relate to the governor's committee on the employment of the handicapped shall continue to serve but

shall upon and after the effective date of this Act be considered employees of the commission on the handicapped. The status of the employees shall not be affected by this Act, except for the redesignation of the committee.

All funds, appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the office of the governor relating to the functions of the governor's committee on the employment of the handicapped shall continue to be used by the commission on the handicapped for the purpose of this Act.

**SECTION 4.** It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with his reasons therefor to the legislature at its next session thereafter for review by the legislature.

**SECTION 5.** This Act shall take effect upon its approval.

(Approved June 15, 1977.)

## ACT 205

S.B. NO. 1411

**A Bill for an Act Relating to Preventing Litter from Trucks.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 291C, part XII, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C Spilling loads on highways.** (1) No vehicle shall be moved on any highway, unless such vehicle is so constructed, covered or loaded as to prevent any of its load other than clear water or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a highway in cleaning or maintaining the highway.

(2) No vehicle shall be driven or moved on any highway when any load thereon is not entirely within the body of the vehicle; provided, however, that this prohibition shall not apply if the load is securely fastened by means of clamps, ropes, straps, cargo nets, or other suitable mechanical device to prevent such load from dropping onto the highway or from shifting in any manner and, further, no vehicle shall be operated on any highway with any load thereon projecting beyond the extreme width of the vehicle.

(3) Vehicles carrying agricultural produce from fields during harvesting shall be exempt from the requirements of this section but the owner of the vehicle must provide for the reasonable removal of all such produce spilled or dropped on the highway.

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1977.)

ACT 206

S.B. NO. 1489

A Bill for an Act Relating to Littering.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 291C, part XII, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 291C- Littering from vehicles.** (a) No person shall throw, place, or drop litter from a vehicle on any highway. The driver of the vehicle may be cited for any litter thrown, placed, or dropped from such vehicle.

(b) As used in this section, "litter" means rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, or any debris of whatever kind or description whether or not it is of value.

(c) The court may, in addition to the penalties imposed under section 291C-161, Hawaii Revised Statutes, sentence any person convicted of the offense of littering from vehicles as follows:

- (1) For the first offense, defendant shall spend up to four hours picking up litter on public property; and
- (2) For any subsequent offense, defendant shall spend up to eight hours picking up litter on public property.

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1977.)

ACT 207

H.B. NO. 1144

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** The mayor of each county, after holding a public hearing on the matter and receiving the approval of the respective council, shall be empowered to designate areas of land for experimental and demonstration housing projects, the purposes of which are to research and develop ideas that would reduce the cost of housing in the State. Except as hereinafter provided, the experimental and demonstration housing projects shall be exempt from all statutes,

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\*Edited accordingly.

ordinances, charter provisions and rules or regulations of any governmental agency or public utility relating to the zoning and construction standards for the subdivision, development or improvement of land and the construction and sale of homes thereon; provided that the experimental and demonstration housing projects shall not affect the safety standards or tariffs approved by the public utility commissions for such public utility. The mayor of each county with the approval of the respective council may designate a county agency or official who shall have the power to review all plans and specifications for the subdivision, development and improvement of the land involved and the construction and sales of homes thereon. The county agency or official shall have the power to approve or disapprove or to make modifications to all or any portion of the plans and specifications. The final plans and specifications for the project approved by the county agency or official, upon subsequent approval by the respective council, shall constitute the standards for that particular project. No action shall be prosecuted or maintained against any county, its officials or employees, on account of actions taken by them in reviewing, approving or disapproving such plans and specifications.

Any experimental or demonstration housing project for the purposes hereinabove mentioned may be sponsored by any State or county agency or any person as defined in section 1-19.

The county agency or official shall apply to the State Land Use Commission for an appropriate land use district classification change, except where a proposed project is located on land within an urban district established by the State Land Use Commission. Notwithstanding any law, rule or regulation to the contrary, the State Land Use Commission may approve the application at any time after a public hearing held in the county where the land is located upon notice of the time and place of the hearing being published in the same manner as the notice required for a public hearing by the planning commission of the appropriate county."

SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any law to the contrary notwithstanding, any county may:

- (1) Authorize and issue bonds under chapter 47 and chapter 49 to provide moneys to carry out the purposes of this section, including the satisfaction of any guarantees made by the county pursuant to this section;
- (2) Appropriate moneys of the county to carry out the purposes of this section;
- (3) Obtain insurance and guarantees from the State or the United States, or subsidies from either;
- (4) Designate, after holding a public hearing on the matter and with the approval of the respective council, any lands owned by it for the purposes of this section;
- (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of federal assistance for persons of low income; and
- (6) Adopt such rules pursuant to chapter 91 as are necessary to carry out the purposes of this section."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1977.)

ACT 208

H.B. NO. 1547

A Bill for an Act Relating to Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 46-6 Parks and playgrounds for subdivisions.** (a) Except as hereinafter provided, each county shall adopt ordinances to require a subdivider, as a condition precedent to approval of a subdivision to provide land in perpetuity or to dedicate land for park and playground purposes, for the use of purchasers or occupants of lots or units in subdivisions. The ordinances may prescribe the instances when land shall be provided in perpetuity or dedicated, the area, location, grade, and other state of the sites so required to be provided or dedicated. In addition thereto, such ordinances may prescribe penalties or other remedies for violation of such ordinances.

(b) In lieu of providing land in perpetuity or dedicating land, the ordinances may permit a subdivider pursuant to terms and conditions set forth therein to:

- (1) Pay to the county a sum of money equal to the value of land and facilities he would otherwise have had to provide or dedicate;
- (2) Combine the payment of money with land to be provided or dedicated, the total value of such combination being not less than the total value of the land he would otherwise have had to provide or dedicate.

The method of valuation of land where money payments are made shall be prescribed by the ordinances. The ordinances shall also provide that such money shall be used for the purpose of providing parks and playgrounds for the use of purchasers or occupants of lots or units in the subdivision.

(c) Pursuant to terms, conditions and limitations specified by the ordinances, a subdivider shall receive credit:

- (1) For privately-owned and maintained parks and playgrounds;
- (2) For lands dedicated or provided for park and playground purposes prior to the effective date of the ordinances.

(d) Upon the provision of land in perpetuity or the dedication of land by the subdivider as may be required under this section, the county concerned shall thereafter assume the cost of improvements and their maintenance, and the subdivider shall accordingly be relieved from such costs.

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\*Edited accordingly.

(e) The ordinances adopted pursuant to this section may provide, where special circumstances, conditions and needs within the respective counties so warrant, for such exemptions and exclusions as the councils of the respective counties may deem necessary or appropriate and may also prescribe the extent to and the circumstances under which the requirements therein shall or shall not be applicable to subdivisions.

(f) For purposes of this section certain terms used herein shall be defined as follows:

- (1) "Approval" means the final approval granted to a proposed subdivision where the actual division of land into smaller parcels is sought, provided that, where construction of a building or buildings is proposed without further subdividing an existing parcel of land, the term "approval" shall refer to the issuance of the building permit.
- (2) "Dwelling unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen.
- (3) "Lodging unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family which does not contain any kitchen.
- (4) "Parks and playgrounds" means areas used for active or passive recreational pursuits.
- (5) "Subdivider" means any person who divides land as specified under the definition of subdivision or who constructs a building or group of buildings containing or divided into three or more dwelling units or lodging units.
- (6) "Subdivision" means the division of improved or unimproved land into two or more lots, parcels, sites, or other divisions of land and for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to, or interest in, any or all such lots, parcels, sites, or division of land. The term includes resubdivision, and when appropriate to the context, shall relate to the land subdivided. The term also includes a building or group of buildings, other than a hotel, containing or divided into three or more dwelling units or lodging units.
- (7) "Privately owned parks and playgrounds" means parks or playgrounds and their facilities which are not provided in perpetuity or dedicated but which are owned and maintained by or on behalf of the ultimate users of the subdivision pursuant to recorded restrictive covenants. Where the privately owned park is a part of the lot or lots on which a building or group of buildings containing or divided into three or more dwelling units or lodging units is constructed it shall not be required that the private park or playground meet county subdivision standards nor shall the area of the private park or playground be deducted from the area of the lot or lots for purposes of zoning or building requirements."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1977.)

ACT 209

H.B. NO. 168

A Bill for an Act Relating to Intake Service Centers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-1.3, Hawaii Revised Statutes, is amended to read:

**"Sec. 353-1.3 Creation of intake service center advisory board.** There shall be an intake service center advisory board, hereinafter called the board. The board shall consist of fifteen members who shall be appointed by the governor for a term ending on the day that the governor completes his term of office, but who shall continue to serve on the board until their successors are appointed. Three members each shall be selected from the judiciary and among private social service agencies. Two members each shall be selected from the department of social services and housing, the department of health, from among the police departments of the counties, from among the prosecuting attorneys of the counties, and the remaining member shall be the public defender. A vacancy occurring in the membership shall be filled for the unexpired term thereof. The board shall select its chairman from one of its appointed members. The members shall receive no compensation for their services on the board, but shall be reimbursed for actual expenses incurred in the performance of their duties.

The board shall advise and recommend to the governor policies, directions, priorities, and procedures for the operation of intake service centers and conduct at periodic intervals a review of the performance of intake service centers."

SECTION 2. Section 353-1.4, Hawaii Revised Statutes, is amended to read:

**"Sec. 353-1.4 Creation of intake service center.** There shall be an intake service center for each of the counties. Each center shall be directed and managed by a director. The director of the Oahu intake service center shall be appointed by the governor pursuant to section 353-1.3 without regard to chapters 76 and 77, but shall meet the qualifications for the position determined by the department of personnel services. The director of the Oahu intake service center shall appoint the directors of the other intake service centers pursuant to chapters 76 and 77. The director of the Oahu intake service center shall be the over-all state executive director of all the intake service centers and shall manage, control and direct all of the intake service centers and provide periodic reports not less than annually on their operations to the governor and the intake service center advisory board. Any center may be integrated with and operated concurrently with a community correctional center.

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\*Edited accordingly

The intake service center shall:

- (1) Provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence correctional prescription program planning for committee persons;
- (2) Provide non-custodial and program services for persons awaiting judicial disposition who have not been conditionally released;
- (3) Provide such other personal and correctional services as needed;
- (4) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;
- (5) Refer persons admitted to the center in selected cases, to community programs pending judicial disposition or where judicial proceedings are discontinued or suspended;
- (6) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs.

The intake service center may be staffed by full-time or part-time professional and clerical staff appointed pursuant to chapters 76 and 77, or utilize contractual professional services."

**SECTION 3.** All full-time employees of the intake service center currently not in civil service shall have civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination and shall be accorded all the rights, benefits and privileges attributable thereto, including seniority, prior service credit for retirement, classification and promotional purposes, vacation and sick leave benefits, subject to the following:

- (1) Employees who have at least one full year of service immediately preceding the date of transfer shall be given status as regular employees of the state civil service without competitive examination; and
- (2) Employees employed less than one full year shall be given initial probationary appointment without competitive examination.

**SECTION 4. Civil service compensation.** Positions held by employees converted to civil service status shall be assigned by the director of personnel services to the appropriate class in the position classification plan and the employees shall be paid in accordance with the salary range to which the class is assigned; provided that employees receiving a salary above the minimum rate at the time of their transfer may be paid at a rate higher than the minimum but not exceeding the highest pay rate in the appropriate salary range.

**SECTION 5.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 6.** This Act shall take effect upon its approval.

(Approved June 20, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-21, Hawaii Revised Statutes, is amended to read:

**"Sec. 359G-21 Participation in loans.** The authority may participate up to fifty per cent of the principal amount of a loan made to a qualified borrower by a mortgage lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase or renovation of a residential property; provided that at no time shall the State's total outstanding share exceed the sum of \$10,000,000."

SECTION 2. Section 359G- of section 1, Act 178, Session Laws of Hawaii 1976, is amended by amending subsection (a) to read:

**"(a)** The authority may make loans to qualified residents for the purpose of rehabilitating or renovating an existing housing unit. Loans under this section shall not be in excess of \$10,000, or \$3,500 as prescribed by subsection (h)(1), to any resident or for any housing unit and shall be issued upon execution of a written contract for the performance of the rehabilitation or renovation."

SECTION 3. Section 359G- of section 1, Act 178, Session Laws of Hawaii 1976, is amended by amending subsection (b) to read:

**"(b)** Loans made under this section shall be limited to rehabilitating or renovating housing units to meet minimum standards of habitability and all applicable county or state codes or laws. Loans made under this section shall be available for rehabilitation or renovation of owner-occupied, single-family and duplex housing.

Applications for loans under this section shall be made on such form as is prescribed by the authority. The application shall specify the property to be improved, the amount to be loaned, the down payment to be made by the qualified resident, the schedule of repayment, and such other conditions as are established by the authority. If the loan is assigned to and serviced by a mortgage lender, the application shall be processed by the mortgage lender and forwarded to the authority. The authority shall review all applications and determine the amount of the loan; provided that it shall approve loans only to qualified residents as defined by this section. When an application is approved by the authority, the amount of the loan shall be paid to the mortgage lender for disbursement to the qualified resident, if the loan is assigned to or serviced by a mortgage lender. The mortgage lender shall collect all payments from the qualified resident and otherwise service the loan.

The authority shall arrange to have counseling services provided to qualified applicants and the fees charged for such counseling services may be included as part of the loan. The authority may establish such other minimum requirements which shall be met by owners to qualify for loans, as are conducive to carrying out this section. The authority shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it

has funds available.”

SECTION 4. Section 359G- of section 1, Act 178, Session Laws of Hawaii 1976, is amended by amending subsection (h) to read:

“(h) For the purpose of more effectively carrying out this section, the authority may contract with any legally constituted county housing agency to participate in loans under this section. Such contract shall specify rules of administration; provided that no contract shall prevent the county agency from establishing by rule more specific policies and priorities for assistance not in conflict with this section. To facilitate the applications of elderly citizens in either the lower income or “gap groups” who own their homes and whose needs are for smaller loans that are sufficient to better maintain their homes, if the applicant borrower is otherwise qualified, is fifty-five years of age or older, and is applying for a loan not exceeding \$3,500, then the applicant shall not be required to:

(1) Submit plans and specifications to the authority, but in lieu thereof may submit a written statement as to the scope of the intended renovation work, including a cost estimate therefor and evidence of a building permit from the county having jurisdiction;

(2) Perform the work under the supervision of a contractor licensed pursuant to chapter 444; provided that the authority shall inspect the premises before the work begins and after completion, for which two inspections the authority may charge a fee (deductible from the loan) of \$50; or

(3) Execute a mortgage securing the loan, but may in lieu thereof provide the authority with a chattel mortgage on personal property, or make an assignment to the authority of a personal asset or assets, or provide a third party guaranty in form acceptable to the authority, which alternative in any case shall provide the authority with a secondary source of repayment in the event of default.”

SECTION 5. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and read:

**“Sec. 359G- Restrictions on use, sale and transfer of dwelling units; effect of amendment or repeal.** (a) Restrictions on the use, sale and transfer of dwelling units shall be made as uniform as possible in application to purchasers of all units, and restrictions shall be conformed with agreement of the purchaser to reflect change or repeal made by any subsequent legislative act, ordinance, rule or regulation. Dwelling unit purchasers shall be permitted at their election to sell or transfer units subject to restrictions in effect at the time of their sale or transfer.

(b) The authority, any other department of the State, or any county housing agency maintaining restrictions, through contract, deed, other instrument, or by rule or regulation, shall notify all purchasers of any change in restrictions made by law, ordinance, rule or regulation not more than one hundred eighty (180) days after the effective date of this Act or of a change in restriction, as the case may be, and such notice shall clearly state the enacted or proposed new provisions, the date or dates upon which they are to be effective and offer to each purchaser of dwelling units constructed and sold prior to such effective date, an opportunity to modify the existing contract or other instrument to incorporate the most recent provisions.

(c) Where the restrictions on transfer of property apply for a period of time, the period of time shall not be increased beyond the date calculated from the date of original purchase.

(d) No dwelling unit purchaser shall be entitled to modify the restrictions on use, transfer, or sale of the dwelling unit, without the written permission of the holder of a duly-recorded first mortgage on the dwelling unit and the owner of the fee simple or leasehold interest in the land underlying the unit, unless the holder of the first mortgage or the owner is an agency of the State or its political subdivisions.

(e) This section shall apply to all dwelling units developed, constructed and sold pursuant to this chapter and similar programs in the State or its political subdivisions and which are sold on the condition that the purchaser accepts restrictions on the use, sale or transfer of interest in the dwelling unit purchased.

(f) The provisions of this section shall be incorporated in any deed, lease, instrument, rule or regulation relating to restrictions on use, sale or transfer of dwelling units, entered into after the effective date of this Act."

SECTION 6. Section 5 of this Act shall take effect upon its approval, and shall apply to all dwelling units constructed, developed, or otherwise assisted by the Hawaii housing authority, or housing agencies of the counties, in which dwelling units have been sold to persons or families occupying such units, under any program authorized under chapters 46, 53, 359, and 359G, Hawaii Revised Statutes.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 20, 1977.)

ACT 211

S.B. NO. 1350

A Bill for an Act Relating to Residency Requirements for Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 78-1, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 78-1 Citizenship and residence of government officials and employees; exemptions.** (a) All officers, whether elective or appointive, in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens of the United States and residents of the State for at least three years immediately preceding their appointment.

(b) All employees in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals or permanent resident aliens of the United States and residents of the State for at least one year immediately preceding their application for

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\*Edited accordingly.

employment.

(c) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (b) applied within forty-five days after the first publication of an advertisement of the position or a notice of an examination therefor, which advertisement or notice has been published more than once, and not oftener than once a week, in a newspaper of general circulation in the State, a person without the qualifications may, upon prior certification by the state director of personnel services of the city and county director of civil service or the county personnel director, whichever is applicable, and with the approval of the chief executive officer for the State or the political subdivision concerned, be employed.

(d) The requirement of residency, as defined under subsection (b) above, shall not apply to a resident who was a resident of the State for at least one year immediately before marrying a non-resident and who continues to reside in the State.

(e) For the positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States, the employees shall be citizens of the United States in addition to meeting the requirement of residency in subsection (b).

(f) The requirement of residency, as defined under subsection (b) and the requirements of subsection (c) shall not apply to persons recruited by the University of Hawaii under the authority of Chapter 304-11; provided however, that all persons recruited as Administrative/Professional/Technical personnel of the University of Hawaii shall be subject to the requirement of residency; provided further that appointment of persons to positions requiring highly specialized technical and scientific skills and knowledge may be made without consideration of residency.

**SECTION 2. Severability.** If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 21, 1977.)

ACT 212

S.B. NO. 1139

A Bill for an Act Relating to Agriculture and Aquaculture Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to foster the development

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\*Edited accordingly.

of aquaculture by expanding the aquaculture loan program to a level generally comparable to that of the farm loan program.

SECTION 2. Chapter 219, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 219-1 Findings and purpose.** The legislature finds that:

- (1) Aquaculture is a potentially viable industry for the State.
- (2) Conventional financial institutions traditionally do not provide loans in the initiating stages for the establishment of new industries.
- (3) No present state agency or program has the authority to financially assist an enterprise engaged in aquaculture.
- (4) The State should initiate a loan program to assist aquaculture and the techniques of aquaculture as a new industry.

The purpose of this chapter is to establish a loan program to financially assist in the development of aquaculture in the State.

**"Sec. 219-2 Definitions.** As used in this chapter:

- (1) "Aquaculture" means the production of aquatic plant and animal life for food and fiber within the ponds and other bodies of water that are within the real property for which real property taxes are assessed and paid by the owner or producer.
- (2) "Board" means the board of agriculture of the department of agriculture.
- (3) "Qualified aquaculturalist" means a person, or association of persons, actively engaged in aquaculture farming, aquacultural produce processing, or aquacultural product development activities.
- (4) "Cooperative" means a nonprofit association of aquaculturalists organized under Chapter 421.

**"Sec. 219-3 Hawaii aquaculture loan program.** There is established the Hawaii aquaculture loan program to be administered by the board of agriculture.

**"Sec. 219-4 Hawaii aquaculture revolving loan fund.** There is a special fund to be known as the aquaculture revolving loan fund from which monies shall be loaned by the department of agriculture under this chapter. All interest and fees collected by the department shall be deposited in a loan reserve fund to the extent needed to carry on the operations of this program. All payments received on account of principal shall be credited to the revolving loan program.

**"Sec. 219-5 Rules and regulations.** The board of agriculture shall have the necessary powers to carry out the purposes of this chapter, including the following:

- (1) Prescribe the qualifications for eligibility of applicants for loans.
- (2) Establish preferences and priorities in determining eligibility for loans and loan repayment requirements.
- (3) Establish the conditions, consistent with the purpose of this chapter, for the granting or for the continuance of a grant of a loan.
- (4) Provide for inspection at reasonable hours of the plant facilities, books and records of an enterprise which has applied for or has been granted

- a loan and to require the submission of progress and final reports.
- (5) To make loans for aquacultural products development such as financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies or materials or for the supplying of working capital consistent with provisions of Section 219-6.
  - (6) To authorize the board to secure loans by duly recorded first mortgages upon the following property within the State:
    - (A) Fee simple farm land;
    - (B) Leaseholds of farm land where the lease has an unexpired term at least two years longer than the term of the loan;
    - (C) Aquaculture products;
    - (D) Other chattels;
    - (E) A second mortgage when any prior mortgage does not contain provisions which might jeopardize the security position of the department or the borrower's ability to repay;
    - (F) Written agreements such as an assignment of income.
  - (7) To administer the Hawaii aquaculture loan revolving fund and to deposit into the fund all monies received as repayment of loans and interest payment.
  - (8) To include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter.
  - (9) Insure loans made to qualified aquaculturalists by private lenders under Section 219-7.
  - (10) Participate in loans made to qualified aquaculturalists by private lenders under Section 219-8.
  - (11) Establish interest rates chargeable by the State for direct loans and by private lenders for insured and participation loans.

**"Sec. 219-6 Loan; limitation and terms.** Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes "A", "B" and "C" in paragraphs (1), (2) and (3) following and shall be made only to applicants who meet the eligibility requirements specified therein.

- (1) Class A: Aquaculture farm ownership and improvement loans. To provide for:
  - (A) The purchase or improvement of aquaculture farm land and waters;
  - (B) The purchase, construction, or improvement of adequate aquaculture farm dwellings, and other essential aquaculture farm facilities;
  - (C) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$100,000 and for a term not to exceed forty years. To be eligible the applicant shall

- (A) derive, or present an acceptable plan to derive, a major portion of his income from and devote, or intend to devote, most of his time to aquaculture farming operations;
- (B) have or be able to obtain the operating capital, including fishstock and equipment, needed to

successfully operate his aquaculture farm.

- (2) **Class B: Aquaculture operation loans.** To carry on and improve an aquaculture operation, including:
  - (A) The purchase of aquaculture equipment and fishstock;
  - (B) The payment of production and marketing expenses including materials, labor, and services;
  - (C) The payment of living expenses;
  - (D) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$75,000 and for a term not to exceed ten years. To be eligible, an applicant shall derive or present an acceptable plan to derive a major portion of his income from and devote, or intend to devote, most of his time to aquaculture operations.

- (3) **Class C: Aquaculture cooperative and corporation loans.** To provide credit to aquaculturalists' cooperative associations and corporations engaged in marketing, purchasing, and processing, and providing farm business services, including:
  - (A) Facility loans to purchase or improve land, building, and equipment for an amount not to exceed \$250,000 and a term not to exceed twenty years;
  - (B) Operating loans to finance inventories of supplies, warehousing, and shipping commodities, extension of consumer credit to justified farmer-members, and other normal operating expenses for an amount not to exceed \$150,000 and a term not to exceed three years.

To be eligible, a cooperative or corporation shall have at least seventy-five per cent of its board of directors and seventy-five per cent of its membership as shareholders who meet the eligibility requirements prescribed by the board and who devote most of their time to aquaculture operations.

**"Sec. 219-7 Loans insured by the department.**

- (1) The department of agriculture may insure up to ninety per cent of the principal balance of a loan, plus interest due thereon, made to a qualified aquaculturalist by a private lender who is unable otherwise to lend the applicant sufficient funds at reasonable rates.
- (2) Loans insured under this Section shall be limited by the provisions of Section 219-6.
- (3) Interest charged on an insured loan made under the provisions of this Section shall be determined by the board.
- (4) When the application for an insured loan has been approved by the department, the department shall issue to the lender a guaranty for that percentage of the loan on which it insures payment of principal and interest. The lender shall collect all payments from the borrower and otherwise service the loan.
- (5) In return for the department's guaranty, the lender shall remit out of

interest collected an insurance fee of one-half of one per cent a year on the unpaid principal balance of the insured portion of the loan, provided that this fee shall not be added to any amount which the borrower is obligated to pay.

- (6) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the department shall issue, on request of the lender, a check for the percentage of the overdue payment guaranteed, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The department shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower.
- (7) Under conditions specified in regulations of the department, the lender may request that a portion or all of the guaranteed percentage of the principal balance of the loan be converted to a participating share held by the department subject to Section 219-7.
- (8) Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the department. Within thirty days of the notification, the department may elect to request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim.
- (9) The lender may reduce the percentage of the principal balance insured under this section at any time.

**"Sec. 219-8 Participation in loans by the department.**

- (1) The department of agriculture may provide funds for a share, not to exceed ninety per cent, of the principal amount of a loan made to a qualified aquaculturalist by a private lender who is unable otherwise to lend the applicant sufficient funds at reasonable rates where the qualified farmer is unable to obtain sufficient funds for the same purpose from the Farmers Home Administration.
- (2) Participation loans under this Section shall be limited by the provisions of Section 219-6 and the department of agriculture's share shall not exceed the maximum amounts specified therefor.
- (3) Interest charged on the private lender's share of the loan shall not be more than the sum of two per cent above the lowest rate of interest charged by all banks, either commercial banks within the meaning of Section 403-3, or national banks excepted under Section 403-10, doing business in the State of Hawaii, on unsecured short term loans made to borrowers who have the highest credit rating with such banks.
- (4) The private lender's share of the loan may be insured by the department up to ninety per cent of the principal balance of the loan, under the provisions of Section 219-7.
- (5) When a participation loan has been approved by the department, its share shall be paid to the participating private lender for disbursement to the borrower. The private lender shall collect all payments from the

- borrower and otherwise service the loan.
- (6) Out of interest collected, the private lender may be paid a service fee to be determined by the department which fee shall not exceed one per cent of the unpaid principal balance of the loan, provided that this fee shall not be added to any amount which the borrower is obligated to pay.
  - (7) The participating private lender may take over a larger percentage or the full principal balance of the loan at any time that it has determined, to the satisfaction of the department, that the borrower is able to pay any increased interest charges resulting.
  - (8) Security for participation loans shall be limited by the provisions of Section 219-5(6). All collateral documents shall be held by the private lender. Division of interest in collateral received shall be in proportion to participation by the department and the private lender."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 1977.)

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\*Edited accordingly.

**1977**  
**FIRST SPECIAL SESSION**  
**LAWS**



**SESSION LAWS OF HAWAII  
PASSED BY THE  
NINTH STATE LEGISLATURE  
FIRST SPECIAL SESSION  
1977**

ACT 1

H.B. NO. 5

**A Bill for an Act Making Appropriations for Collective Bargaining Cost Items and for Salary Adjustments of Employees Excluded from Certain Bargaining Units.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

**SECTION 1.** There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal year 1976-1977 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 1 and for salary increases and other adjustments for employees excluded from the foregoing bargaining unit:

General Fund	\$2,940,907	Federal Funds	\$216,585
Special Funds	\$1,543,268	Other Funds	\$ 9,729

**SECTION 2.** There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to maintain for the fiscal biennium 1977-79 the level of increases approved or covered in Section 1 of this part:

	<b>FY 1977-78</b>	<b>FY 1978-79</b>
General Fund	\$2,940,907	\$2,940,907
Federal Funds	\$ 216,585	\$ 216,585
Special Funds	\$1,543,268	\$1,543,268
Other Funds	\$ 9,729	\$ 9,729

**SECTION 3.** Any provision of law to the contrary notwithstanding, the governor is authorized to utilize the sums appropriated or authorized by this part for salary increases for employees excluded from collective bargaining unit 1 under Chapter 89, Hawaii Revised Statutes, provided that the increases shall not exceed and shall not take effect earlier than increases for comparable members of the foregoing bargaining unit.

**SECTION 4.** Funds appropriated or authorized by this part shall be allotted by the director of finance for the purposes of this part.

## PART II

SECTION 5. There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) for the fiscal biennium 1977-79 the following sums or so much thereof as may be necessary to fund collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 13 and for salary increases and other adjustments for officers and employees excluded from the foregoing bargaining units:

	FY 1977-78	FY 1978-79
General Fund	\$7,114,745	\$12,943,362
Federal Funds	\$1,243,576	\$ 2,161,898
Special Funds	\$1,321,772	\$ 2,306,082
Other Funds	\$ 831,127	\$ 1,557,032

SECTION 6. Any provisions of law to the contrary notwithstanding, the Governor is authorized to utilize the sums appropriated or authorized by this Part for salary increases for officers and employees excluded from collective bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 13 under Chapter 89, Hawaii Revised Statutes, provided that said increases shall not exceed and shall not take effect earlier than increases for comparable members of the foregoing bargaining units.

SECTION 7. Funds appropriated or authorized by this Part shall be allotted by the director of finance for the purposes of this Part.

## PART III

SECTION 8. There is hereby appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) for the fiscal biennium 1977-79 the following sums or so much thereof as may be necessary to fund collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 1, 3, 4, 10, and 13 and for salary increases and other adjustments for officers and employees excluded from the foregoing bargaining units:

	FY 1977-78	FY 1978-79
General Fund	\$126,531	\$297,188
Federal Funds	\$ 29,304	\$ 52,188
Special Funds	\$ 20,000	\$ 30,000

SECTION 9. Any provisions of law to the contrary notwithstanding, the Chief Justice is authorized to utilize the sums appropriated or authorized by this Part for salary increases for officers and employees excluded from collective bargaining units 1, 3, 4, 10, and 13 under Chapter 89, Hawaii Revised Statutes, provided that said increases shall not exceed and shall not take effect earlier than increases for comparable members of the foregoing bargaining units.

SECTION 10. Funds appropriated or authorized by this Part shall be allotted by the administrative director of the courts for the purposes of this Part.

#### PART IV

SECTION 11. Salary increases provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 12. Funds appropriated or authorized by this Act not expended or encumbered by June 30, 1978, and June 30, 1979 of the respective fiscal years shall lapse as of that date; provided funds appropriated or authorized under Part I, Section 1 of this Act not expended or encumbered by September 30, 1977 shall lapse as of that date.

SECTION 13. This Act shall take effect upon its approval.

(Approved June 1, 1977.)

#### ACT 2

#### S.B. NO. 5

A Bill for an Act Relating to Environmental Quality and Litter Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that the visual appearance of much of our State is blighted by the presence of litter. The legislature also finds that the existing sanctions against littering are inadequate and finds that recycling of wastes back into a new material should be encouraged. The legislature further finds that when litter receptacles are available and when an enforcement program exists, the amount of litter is much reduced. The purpose of this chapter is to reduce the amount of litter in Hawaii.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

### “CHAPTER LITTER CONTROL

**Sec. -1 Definitions.** As used in this chapter:

- (1) “Beverage” means beer or other malt beverages, mineral waters, fruit juices, ades, and other similar noncarbonated drinks, soda water and flavored carbonated drinks, in liquid form and intended for human consumption.
- (2) “Beverage container” means the individual, separate, sealed glass, metal or plastic bottle or can, containing a beverage.
- (3) “Director” means the director of the department of health.
- (4) “Litter” means all rubbish, refuse, and waste material.
- (5) “Litter bag” means a bag, sack, or other container which is large enough to serve as a receptacle for litter.
- (6) “Litter receptacle” means a covered plastic or metal container of no less than fifteen gallons and no more than thirty-five gallons capacity, or other appropriate container, made available for the depositing of wastes.

- (7) "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests.
- (8) "Recycle" means to extract from the waste collection items for which a market exists and delivering such items to a point where they are converted to a material for later manufacture or reprocessing.
- (9) "Watercraft" means any boat, ship, vessel, or other floating craft which is berthed in or sails upon the territorial waters of Hawaii.
- (10) "Water of the State" means any stream, river, ocean, canal, harbor, bay, or the like located within the territorial limits of the State.

**Sec. -2 Powers of the director.** (a) The director shall have the power to administer and enforce the provisions of this chapter and to propose and to adopt pursuant to chapter 91 rules necessary to carry out the provisions, purposes, and intent of this chapter, and may delegate responsibilities with the exception of rule-making to the agency he deems appropriate.

(b) The director may request all state and local governmental agencies having law enforcement powers to provide services and personnel reasonably necessary to assist in the enforcement of this chapter. Any such agency and personnel thereof so assisting the director shall be empowered to enforce this chapter and all such rules.

(c) The director may employ a person without regard to chapters 76 and 77 to serve at his pleasure as he finds necessary for the implementation of this chapter.

(d) The provisions of this chapter shall not in any way preempt or diminish the present powers and duties of state and county agencies in regard to the prevention and control of litter.

**Sec. -3 Duties of the director.** The director shall:

- (1) Be responsible for the study of available research in the field of litter control, prevention, removal, disposal, and recycling; the study of methods for the implementation of such research; and development of public educational programs.
- (2) Serve as a coordinator between the State, state agencies and various organizations seeking to aid in the anti-litter effort.
- (3) Cooperate with local governments to accomplish the coordination of anti-litter efforts.
- (4) Encourage voluntary local anti-litter campaigns.
- (5) Apply for funds or other resources available from private or public sources.
- (6) Conduct educational programs intended to instill the anti-litter ethic.
- (7) Design a state anti-litter symbol.
- (8) Post anti-litter signs in public places where required.
- (9) Design and make available a litter bag bearing the state anti-litter symbol and a statement of the penalties prescribed herein for littering.

**Sec. -4 Prohibition.** No person shall discard or otherwise dispose of litter in a public place, or in the waters of the State except:

- (1) In a place which is designated by the department or the county for the disposal of garbage and refuse.

(2) Into a litter receptacle or litter bag.

**Sec. -5 Responsibilities of owners and lessees of real property.** It shall be the responsibility of any owner or lessee of real property in the state land use urban districts zoned for urban use by the county to maintain sidewalks, alleys, curbs, roadway shoulder areas, fence lines, and hedges immediately adjoining such real property in a litter-free condition except that in no way will the statute be used to release the state and county agencies from continuing their present level of public property maintenance.

**Sec. -6 Litter containers.** Litter receptacles shall be suitably located along the public highways of the State, public places, beaches and bathing areas. The number of such receptacles and the duty to provide receptacles and to dispose of litter from the receptacles shall be established by the rules adopted pursuant to section -2(a).

**Sec. -7 Beverage container requirements.** (a) No person shall sell or offer for sale in this State any beverage in metal containers so designed and constructed that a part of the container is permanently detached in opening the container.

(b) No person shall sell or offer for sale in this State any beverage in a plastic container.

(c) Failure to comply with the provisions of this section shall constitute a violation and shall carry a fine of \$250. Each day of such failure shall constitute a separate violation.

**Sec. -8 Penalties.** Except as otherwise provided in this chapter, any person violating any provision of this chapter or any rule promulgated hereunder shall be guilty of a violation, and shall be fined no more than \$10, or be ordered to pick up and remove litter from a public place under the supervision of the director or as the court shall otherwise provide for a period not exceeding eight hours, or both, for each offense.

**Sec. -9 Enforcement powers.** All law enforcement officers and personnel authorized to carry out the provisions of this chapter may issue citations for violations of this chapter or any of the rules adopted hereunder.

**Sec. -10 Injunction to restrain violation.** In addition to the remedies provided in this chapter, the director may apply to the circuit court for a temporary or permanent injunction restraining any person from violating any provision of this chapter.

**Sec. -11 Transfer of authority and responsibility.** The governor may, at his discretion, transfer the authority and responsibility for implementing the provisions of this chapter to any appropriate state agency or office."

**SECTION 3. Appropriations.** There is appropriated out of the general revenues of the State of Hawaii, the sum of \$300,000, or so much thereof as may be necessary, for implementing the provisions of this Act. All unencumbered funds shall lapse on June 30, 1979.

**SECTION 4.** This Act shall take effect upon its approval, except for sections -6, and -7, in section 2, which shall take effect January 1, 1979, with

the provision that the director may extend the deadline if necessary for a period not to exceed six months.

(Approved June 16, 1977.)

ACT 3

H.B. NO. 4

A Bill for an Act Relating to Unemployment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The continued hardships caused by Hawaii's high rate of unemployment requires legislative action to ease the situation for Hawaii families. There is no sharp decline in the unemployment rate expected within the near future. Thus, more flexibility in providing on-the-job training to qualified enrollees is needed. This can be done by eliminating the "economically disadvantaged" category.

Therefore, it is the purpose of this Act to ease the hardships caused by unemployment by making changes in the state program for unemployed.

SECTION 2. Section -2 of section 1 of Act 151, Session Laws of Hawaii 1975, as amended, is amended to read:

**"Sec. -2 Definitions.** As used in this chapter:

- (1) "CETA" means the Federal Comprehensive Employment and Training Act, title 42, U.S.C., section 841, et. seq. (Public Law 92-203).
- (2) "Department" means the department of labor and industrial relations.
- (3) "Director" means the director of labor and industrial relations.
- (4) "Unemployed individual" means an individual who is without a job, is able, is available for, and is seeking full-time employment."

SECTION 3. Section -11 of section 1, Act 151, Session Laws of Hawaii 1975, as amended, is amended to read as follows:

**"Sec. -11 Authority and priorities.** The director may create and administer a statewide state-funded public service employment program under which job training including institutional training, on-the-job training, and such other forms of training as may be deemed useful by the director to develop skills or retrain, may be established. In carrying out the program, the director shall accord priority to individuals to be hired in the following order:

First: Unemployed individuals who have been unemployed for more than fifteen weeks, including those who have exhausted their unemployment benefits.

Second: All other unemployed individuals who are unemployment insurance claimants, including those who have exhausted their unemployment benefits.

Third: All other unemployed individuals, whether or not unemployment insurance claimants, who are certified by the director as recipients of state public assistance under chapter 346.

Fourth: All other unemployed and underemployed individuals, whether or not unemployment insurance claimants.

Persons employed in public service jobs under this chapter shall be paid wages which shall not be lower than the state minimum wage nor higher than

\$10,000 a year.

Such persons shall not be considered state employees and shall not be subject to the provisions of law relating to state employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, collective bargaining, and state employee benefits, except that such persons shall be entitled to employee coverage under chapter 87, Hawaii Revised Statutes.

For purposes of chapter 386 such persons shall be deemed employees of the State within the meaning of the term "employee" as defined in section 386-1, and the provisions of that chapter shall apply."

SECTION 4. Act 151, Session Laws of Hawaii 1975, as amended, is amended by adding a new section -5 to section 1 to read:

**"Sec. -5 Civil service exemption.** The director may employ necessary administrative staff for the program in positions that are exempt from chapters 76 and 77. Regular employees of the department assigned to the program shall remain subject to chapters 76 and 77."

SECTION 5. Act 151, Session Laws of Hawaii 1975, is amended by amending sections -21 and -22 of section 1 to read as follows:

**"Sec. -21 State subsidy for certain employers.** Any employer, whether profit-making or nonprofit making, who agrees to participate in an employment program to train, including institutional training, on-the-job training, and such other forms of training as may be deemed useful by the department, to retrain, to develop skills to complement government employment security programs, and to permanently hire unemployed persons shall be entitled to a State subsidy in accordance with this part and such rules as may be necessary.

**Sec. -22 Nature of subsidy.** The subsidy shall be to defray extra costs of providing employment and a program of training, including institutional training, on-the-job training, and such other forms of training as may be deemed useful by the department, retraining, skills development, and support services. It may be used for on-the-job training and counseling, job orientation, job-related education, instruction in English as a second language, medical and dental services, transportation expenses, a portion of wages, and other costs related to such employment.

All subsidies shall be made directly to the employer by the director. The amounts of the subsidies shall be determined by the director in accordance with guidelines adopted by him, and all subsidies shall be incorporated into contracts entered into between the director and the participating employers."

SECTION 6. Act 151, Session Laws of Hawaii 1975, is amended by repealing section -24 of section 1.

SECTION 7. Section 4 of Act 151, Session Laws of Hawaii 1975, as amended, is amended to read:

**"SECTION 4.** This Act shall be in effect for the period July 1, 1975 to June 30, 1978. Appropriations made under Act 151, SLH 1975 and Act 134, SLH 1976 and not encumbered shall lapse on June 30, 1977."

## ACT 4

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,000,000, or so much thereof as may be necessary to implement Act 151, Session Laws of Hawaii 1975, as amended by Act 134, Session Laws of Hawaii 1976, and as further amended by this Act. The sum appropriated shall be expended by the director of labor and industrial relations for the purposes of this Act.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary to implement the program set forth in parts III and IV of the chapter created in section 1 of Act 151, Session Laws of Hawaii 1975, as amended by Act 134, Session Laws of Hawaii 1976, and as further amended by this Act. The sum appropriated shall be expended by the director of labor and industrial relations for the purposes of this Act.

SECTION 10. This Act shall lapse and all appropriations under this Act not encumbered or expended on June 30, 1978 shall lapse into the State general fund. Notwithstanding this lapse date, administrative staff may be continued for purposes of program closeout, up to December 31, 1978.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 12. This Act shall take effect on July 1, 1977.

(Approved June 16, 1977.)

## ACT 4

H.B. NO. 10

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, and corporations for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

Section 37-77, Hawaii Revised Statutes.

### REFUND OF TAXES:

	Division	Amount
Fujii, Kanichi (Real Property)	First	\$ 76.84
Lugo, Mary F. (Real Property)	First	265.97
Seymour, Iola P. (Real Property)	First	682.96
Takahashi, Sakae (Real Property)	First	4,970.71
Wong, Henry (Real Property)	First	6,435.77

\*Edited accordingly.

Chapter 662, Hawaii Revised Statutes  
**JUDGMENTS AGAINST THE STATE AND SETTLEMENT OF CLAIMS:**

Oakley, George, by and through his Guardian,  
 Patricia Oakley

Civil No. 2360, Third Circuit

Date of Judgment: May 28, 1976

Amount of Judgment:	\$10,000.00	
4% Interest:	469.04	\$10,469.04

Kanaele, James, et al.

Civil No. 2604, Second Circuit

Date of Judgment: October 13, 1976

Amount of Judgment:	\$ 5,000.00	
4% Interest:	158.90	\$ 5,158.90

Garguilo, Stephen M., et al.

Civil No. 45888, First Circuit

Date of Judgment: June 22, 1976

Amount of Judgment:	\$ 4,000.00	
4% Interest:	176.66	\$ 4,176.66

Rutgers, William D., a minor, by his next friends,

Lahi Gillette and Guy Gillette

Civil No. 37763, First Circuit

Date of Judgment: November 26, 1976

Amount of Judgment:	\$45,000.00	
4% Interest:	1,213.15	\$46,213.15

Christensen, Lois, individually and as

Guardian Prochein Ami for

Douglas Christensen, a minor

Civil No. 43877, First Circuit

Date of Judgment: November 18, 1976

Amount of Judgment:	\$19,000.00	
4% Interest:	528.88	\$19,528.88

Aikau, Solomon Nionno, Jr., as

Administrator of the Estate of

Gerald Kelii Aikau, et al.

Civil No. 41964, First Circuit

Date of Judgment: November 16, 1976

Amount of Judgment:	\$10,000.00	
4% Interest:	280.55	\$10,280.55

Kunioka, Kevin, by his next friend,

Wallace Kunioka and Wallace Kunioka

Civil No. 42754, First Circuit

Date of Judgment: November 16, 1976

Amount of Judgement:	\$ 5,500.00	
4% Interest:	154.30	\$ 5,654.30

Wood, Walter I. and Margaret B.		
Civil No. 1482, Fifth Circuit		
Date of Judgment: May 20, 1976		
Amount of Judgment:	\$10,000.00	
4% Interest:	477.81	\$10,477.81
Serdinia, Douglas C.		
Civil No. 41027, First Circuit		
Date of Judgment: August 19, 1976		
Amount of Judgment:	\$20,000.00	
4% Interest:	756.16	\$20,756.16
White, Dwight Earl		
Civil No. 44301, First Circuit		
Date of Judgment: December 6, 1976		
Amount of Judgment:	\$ 2,250.00	
4% Interest:	58.19	\$ 2,308.19
Mandeville, Raymond W., for himself and of the Estate of Kim Christine Mandeville		
Civil No. 1653, Fifth Circuit		
Date of Judgment: December 17, 1976		
Amount of Judgment:	\$ 650.00	
4% Interest:	16.03	\$ 666.03
Loring, Clarice		
Civil No. 46018, First Circuit		
Date of Judgment: December 15, 1976		
Amount of Judgment:	\$ 3,250.00	
4% Interest:	80.85	\$ 3,330.85
McCloskey, Sandra		
Civil No. 45977, First Circuit		
Date of Judgment: January 10, 1977		
Amount of Judgment:		\$ 5,500.00
Apo, Earl A., Sr.		
Civil No. 2799, Second Circuit		
Date of Judgment: February 16, 1977		
Amount of Judgment:	\$90,000.00	
4% Interest:	1,660.00	\$91,660.00
Aki, William, et al. and Cross Claimants Dillingham Corporation		
Civil No. 41218, First Circuit		
Date of Judgment: January 24, 1977		
Amount of Judgment:	\$10,000.00	
4% Interest:	206.03	\$10,206.03

Bailey, Paul B. and Maethylle,  
a minor by her next friend  
Civil No. 45637, First Circuit  
Date of Judgment: June 24, 1976  
Amount of Judgment: \$ 2,500.00  
4% Interest: 111.94 \$ 2,611.94

Section 37-77, Hawaii Revised Statutes  
**ESCHEATED BANK AND SAVINGS ACCOUNTS:**

	<b>Amount</b>
Luna, Genoroso	
Honolulu Savings & Loan Company	
Savings Account No. 4795	\$ 453.37

**OUTLAWED WARRANTS AND ESCHEATED ACCOUNTS**

	<b>No.</b>	<b>Amount</b>
Yamaoka, Tetsuo	S 093149	\$ 19.78
Padilla, Edward Ignacio (Estate of)		375.41

**MISCELLANEOUS CLAIMS:**

Tomimoto, Thomas T.	\$ 166.95
Reimbursement for loss by vandals of personal property (21 stereo record albums) at Waimea High and Inter- mediate School, Kauai on October 13-14, 1976.	
Tam, Lenette	20.00
Reimbursement for loss of personal property (clock radio) in burglary at Gus Webling School Administration Office on December 10, 1976.	
Peters, Shirley N.	22.50
Damages to wristwatch caused by patient at Hawaii State Hospital, November 3, 1976.	
Lacuesta, Margaret	50.00
Damages to gold wristwatch caused by mercury which leaked from a defective blood pressure machine at Wai- mano Training School and Hospital, June 17, 1976.	
Burkhart, Robert M.	1,455.17
Reimbursement for loss of personal property while on official State business in Culiacan, Mexico, July 9, 1976.	
Schermerhorn, Lucille A.	45.00
Misplaced State warrant No. 172620, dated June 23, 1964 which has expired due to statutory ten year period.	
Gines, Samuel and Fidencia	57.90
Misplaced State warrant No. S 150860, dated June 1, 1965 which has since expired due to the statutory ten year period.	
Tymeson, Bonnie Lou	9,922.23
Restoration of back pay, incremental increases, and other employee benefits retroactive to the date when she was required to take maternity leave.	

## ACT 5

Lee, Daniel D.	2,828.25
Reimbursement for personal litigation cost incurred in 1973 in his employment reinstatement effort.	
Ng, Logan W. S.	2,828.25
Reimbursement for personal litigation cost incurred in 1973 in his employment reinstatement effort.	
Borges, John H.	2,828.25
Reimbursement for personal litigation cost incurred in 1973 in his employment reinstatement effort.	

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of the department of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the director of the department of budget and finance as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate of four per cent a year, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State.

SECTION 4. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 16, 1977.)

## ACT 5

H.B. NO. 11

A Bill for an Act Relating to the Compensation of Certain Persons under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of compensating the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set out opposite their respective names:

AGMATA, Victor Jr.	\$ 105.00
Case No. 75-28 (Attorney for Robert Westley)	
AGMATA, Victor Jr.	35.00
Case No. 75-57 (Attorney for Pablo B. Alcantra)	
AGMATA, Victor Jr.	30.00
Case No. 75-233 (Attorney for Kenneth R. Kahler)	

AGMATA, Victor Jr.	35.00
Case No. 76-43 (Attorney for Antonio Dela Cruz)	
AGMATA, Victor Jr.	100.00
Case No. 76-114 (Attorney for Makerita M. Umali)	
AGMATA, Victor Jr.	100.00
Case No. 76-147 (Attorney for Benito C. Cezar)	
AH SING, Ida K.	1,707.84
Case No. 75-251	
AILMAN, William G.	290.00
Case No. 76-20	
ALCANTRA, Pablo B.	150.00
Case No. 75-57	
ANDERSON, Wade D.	350.00
Case No. 72-83	
ARCIGA, Newton M.	75.00
Case No. 76-102	
AREAL, Wade G.	808.90
Case No. 76-157	
ASASAKI, Gerald R.	724.28
Case No. 76-159	
BADEN, Vicki L.	1,224.82
Case No. 75-60	
BAKER, Herbert A.	600.94
Case No. 75-234	
BICOY, Bernaldo	350.00
Case No. 76-106 (Attorney for Moses W.M. Cho)	
BOGETTO, Philip	105.00
Case No. 75-164 (Attorney for Thomas Leslie)	
BRYANT, Harold W.	150.00
Case No. 75-238	
BURLEY, Steven H.	1,179.05
Case No. 76-76	
BUTLER, Bruce	2,313.00
Case No. 76-189	
CABRAS, Romeo	903.46
Case No. 74-30	
CARLSON, Dr. Ronald S.	291.00
Case No. 76-20 (Medical Services)	
CARPENTER, Fe	2,325.15
Case No. 75-44	
CARVALHO, Clarence	440.96
Case No. 75-168	
CASTLE MEMORIAL HOSPITAL	255.00
Case No. 75-151 (Medical Services)	
CASTLE MEMORIAL HOSPITAL	2,490.00
Case No. 75-164 (Medical Services)	
CASTLE MEMORIAL HOSPITAL	83.00
Case No. 75-215 (Medical Services)	
CEZAR, Benito C.	1,109.64
Case No. 76-147	
CHAMBERS, David R.	2,427.09
Case No. 75-228	
CHANG, Chia-Ling	1,250.00
Case No. 75-170	
CHANG, Louis	100.00
Case No. 76-157 (Attorney for Wade G. Areal)	

## ACT 5

CHO, Moses W.M.	5,650.00
Case No. 76-106	
CHOCK-PANG CLINIC	189.25
Case No. 75-245 (Medical Services)	
CHRISTENSEN, Steven	100.00
Case No. 75-60 (Attorney for Vicki L. Baden)	
CORPUZ, Pedro	750.00
Case No. 76-208	
CORUM, Van E. Jr.	830.90
Case No. 76-85	
CHRYSLER, Charlotte	1,000.00
Case No. 75-163	
DELA CRUZ, Antonio	138.45
Case No. 76-43	
DELONG, Harriet M.	932.70
Case No. 74-112	
DELOS TRINO, Fe D.	1,955.16
Case No. 76-3	
de SILVA, Tim E.	300.00
Case No. 76-5 (Attorney for Robert W. Moeller)	
DIERDORFF, Dr. Edwin P.	510.64
Case No. 75-151 (Medical Services)	
DIERDORFF, Dr. Edwin P.	867.36
Case No. 75-164 (Medical Services)	
DUGAS, Betty	80.52
Case No. 76-12	
DUGAS, Florent	183.79
Case No. 76-13	
DUMLAO, Linda N.	100.00
Case No. 75-208	
EDMUNDSON, Anne	350.00
Case No. 75-154	
ELLIOT, Eugene K.	1,500.00
Case No. 75-165	
EMMONS, Jay W.	1,057.57
Case No. 74-139	
EVANS, Suzanne R.	484.02
Case No. 75-212	
FISKE, Lorraine B.	2,422.14
Case No. 73-40	
FERNANDEZ, Mary	1,072.12
Case No. 74-46	
FIGUEIRA, John	1,569.60
Case No. 75-219	
FISCHER, Edith K.Y.	500.00
Case No. 76-148	
FITZSIMMONS, Vivian	407.96
Case No. 73-70	
FOLTMER, Marian A.	1,964.30
Case No. 76-1	
FORD, Janet M.	200.00
Case No. 76-30	
FREITAS, Patrick V.	1,036.34
Case No. 75-111	
GEDAN, Joseph	100.00
Case No. 75-13 (Attorney for Fred A. Judy)	

GARCIA, Max	70.00
Case No. 75-126 (Attorney for Nonito A. Tadeo)	
G.N. WILCOX MEMORIAL HOSPITAL	15.20
Case No. 76-123 (Medical Services)	
GRATER, Beth	1,000.00
Case No. 76-87	
GREEN, Howard R.	1,545.02
Case No. 75-142	
HAMILTON, Geoffrey	25.00
Case No. 75-221 (Attorney for Gary L. Philley)	
HAMILTON, Geoffrey	25.00
Case No. 75-222 (Attorney for John R. Neff)	
HAMMERBECK, Harvey A.	1,976.72
Case No. 74-157	
HAMMEROSE, Margot	634.24
Case No. 76-26	
HERNANDEZ, Manuel	238.50
Case No. 76-48	
HAWAII EMERGENCY PHYSICIANS ASSOCIATED	194.60
Case No. 75-231 (Medical Services)	
HAWAII PATHOLOGISTS' LABORATORY	13.21
Case No. 75-202 (Medical Services)	
HAWAII PHYSICIANS & SURGEONS	67.39
Case No. 75-164 (Medical Services)	
HILO HOSPITAL	125.00
Case No. 75-227 (Medical Services)	
HILO HOSPITAL	36.97
Case No. 75-231 (Medical Services)	
HOFSTETTER, Joyce E.	90.48
Case No. 75-184	
HOKAMA, Yoshihide	1,296.85
Case No. 74-38	
HONG, Michael	300.00
Case No. 75-252 (Attorney for Caroline W. Lam)	
HOOVER, Anna M.	100.00
Case No. 76-63	
HUDDLESTON, Bruce C.	25.00
Case No. 75-166	
HUMPHRIES, Wilfred H.	75.00
Case No. 75-237 (Attorney for Edna K. Shiroma)	
IKEDA, Warren S.	3,282.86
Case No. 76-46	
INCILLIO, Miljano	264.06
Case No. 76-175	
ITOKAZU, Eric	1,826.62
Case No. 75-224	
IWAMOTO, Toshiwo	224.92
Case No. 76-121	
JACKSON, Marion Sue	3,017.00
Case No. 75-241	
JACOB, George	75.00
Case No. 76-101	
JACOBY, Gilbert M.	750.00
Case No. 76-158	
JIM, Dr. Edward	1,274.00
Case No. 75-33 (Medical Services)	

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JOHNSON, Darlene	1,000.00
Case No. 75-129	
JOHNSON, Dr. David A.	189.70
Case No. 76-59 (Medical Services)	
JUDY, Fred A.	9,900.00
Case No. 75-13	
JURY, Lester F.	7,296.00
Case No. 75-185	
KAEO, Walter J.	421.01
Case No. 75-33	
KAHLER, Kenneth R.	70.00
Case No. 75-233	
KAISER MEDICAL CENTER	7.50
Case No. 74-139 (Medical Services)	
KAISER MEDICAL CENTER	5.00
Case No. 75-69 (Medical Services)	
KAISER MEDICAL CENTER	7.50
Case No. 75-121 (Medical Services)	
KAISER MEDICAL CENTER	445.67
Case No. 75-126 (Medical Services)	
KAISER MEDICAL CENTER	7.50
Case No. 75-184 (Medical Services)	
KAISER MEDICAL CENTER	199.84
Case No. 75-194 (Medical Services)	
KAISER MEDICAL CENTER	7.50
Case No. 75-208 (Medical Services)	
KAISER MEDICAL CENTER	7.50
Case No. 76-19 (Medical Services)	
KAISER MEDICAL CENTER	5.00
Case No. 76-106 (Medical Services)	
KAISER MEDICAL CENTER	5.00
Case No. 76-148 (Medical Services)	
KAISER MEDICAL CENTER	5.00
Case No. 76-159 (Medical Services)	
KAISER MEDICAL CENTER	285.45
Case No. 76-178 (Medical Services)	
KAMAKA, Joseph	100.00
Case No. 74-10	
KANEMITSU, Cyril	200.00
Case No. 76-46 (Attorney for Warren S. Ikeda)	
KANESHIRO, Howard H.	1,333.93
Case No. 76-180	
KASTURI, Prahlad	221.20
Case No. 75-160	
KAWANO, Alice S.	50.45
Case No. 75-134	
KAWANO, Alice S.	130.50
Case No. 75-135	
KILLION, Thomas R.	750.00
Case No. 76-39	
KINNEY, Teru Hirose	150.00
Case No. 75-25	
KREITZMAN, Lou	250.00
Case No. 75-121	
KRUEGER, James	70.00
Case No. 74-139 (Attorney for Jay W. Emmons)	

KUAKINI HOSPITAL	151.50
Case No. 72-17 (Medical Services)	
KUBO, Dr. Winfred	1,284.23
Case No. 74-164 (Medical Services)	
KUNIYUKI, Ken	100.00
Case No. 74-155 (Attorney for Royal H. Lavallee)	
LAGASCA, Dorothy	5,060.62
Case No. 76-97	
LAM, Caroline W.	5,891.69
Case No. 75-252	
LARDNER, Michael D.	300.06
Case No. 76-59	
LAVALLEE, Royal H.	4,491.49
Case No. 74-155	
LAVATAL, Winona S.	1,000.00
Case No. 76-66	
LAW, Ronald W.	500.73
Case No. 75-187	
LEE, Hwa Ja Yoon	1,500.00
Case No. 75-209	
LEEWARD CLINIC	99.37
Case No. 75-97 (Medical Services)	
LEEWARD FUNERAL HOME	265.00
Case No. 72-127 (Funeral Services)	
LEONG, Edwin G.H.	973.30
Case No. 73-116	
LESLIE, Thomas	3,000.00
Case No. 75-164	
LEWIS, Jesse Jr.	600.00
Case No. 75-81	
LIAO, Dr. Shun Kwung	1,018.10
Case No. 75-202 (Medical Services)	
LINDSAY, James G.	402.78
Case No. 76-21	
LOW, Donald H.C.	150.00
Case No. 75-202 (Attorney for Philip A. Watson)	
LUNA, B. Martin	228.80
Case No. 76-4 (Attorney for Marta P. Romero)	
MacLEOD, Bonnie D.	250.00
Case No. 75-122	
MADAMBA, Paula N.	1,968.06
Case No. 75-10	
MAHI, Ralph P.	375.00
Case No. 75-191	
MALUO, Elijah K. Sr.	1,168.50
Case No. 76-82	
MANCINO, Frank	100.00
Case No. 76-108 (Attorney for Ermalinda M. Rempel)	
MATHIS, Patricia A.	1,500.00
Case No. 74-152	
MATTOCH, Ian L.	200.00
Case No. 75-241 (Attorney for Marion Sue Jackson)	
MATTOCH, KEMPER & BROWN	100.00
Case No. 75-80 (Attorney for Patricia L. Stettler)	
McCOY, Mildred L.	100.00
Case No. 72-127	

# ACT 5

McKENZIE, Christopher	175.00
Case No. 74-46 (Attorney for Mary Fernandez)	
McSHANE, Shannon	1,048.56
Case No. 75-179	
MEEKER, Phillip G.	600.00
Case No. 76-77	
MENDONCA, Hattie G.	1,884.72
Case No. 72-178	
MOELLER, Robert W.	2,229.28
Case No. 76-5	
MOORE, Kimberly I.	1,500.00
Case No. 76-93	
MEDICAL ANESTHESIA	47.84
Case No. 75-33 (Medical Services)	
MOORE, Ronald J.	750.00
Case No. 75-218	
NAKACHI, Richard L.	150.00
Case No. 75-69	
NAKAI, Masuo	105.38
Case No. 75-245	
NAKAMURA, Diane R.	1,246.00
Case No. 75-246	
NEBREJA, Fernando N.	557.13
Case No. 76-105	
NEFF, John R.	225.00
Case No. 75-222	
NEWTON, Woodrow B.	841.73
Case No. 74-78	
NICHOLSON, Dr. Maurice	64.48
Case No. 74-37 (Medical Services)	
NILES, Dale	786.16
Case No. 75-182	
OKAMURA, Charles M.	448.50
Case No. 75-70	
OKUMOTO, Dr. Pete	54.08
Case No. 75-227 (Medical Services)	
PACARIEM, Rogelio A.	515.18
Case No. 75-97	
PACHECO, Antone L.	7,500.00
Case No. 76-31	
PAVAO, Edwin Jr.	400.00
Case No. 75-231	
PAVAO, Vivian J.	378.00
Case No. 75-194	
PEGG, Richard	1,170.00
Case No. 76-19	
PEYTON, Dorothy Buck	720.00
Case No. 75-215	
PHILLEY, Gary L.	375.00
Case No. 75-221	
PIGAO, Bella C.	1,178.96
Case No. 72-17	
PITTENGER, Richard E.	500.00
Case No. 75-18	
PRIAN, Helen	1,000.00
Case No. 76-170	

PRINCE, Clarence E.	3,000.00
Case No. 76-40	
PURDY, Leilani O.	75.00
Case No. 75-192	
QUEEN'S MEDICAL CENTER	85.50
Case No. 74-37 (Medical Services)	
QUEEN'S MEDICAL CENTER	1,009.55
Case No. 75-202 (Medical Services)	
QUEEN'S MEDICAL CENTER	155.60
Case No. 75-238 (Medical Services)	
QUEEN'S MEDICAL CENTER	893.60
Case No. 76-59 (Medical Services)	
QUEEN'S MEDICAL CENTER	132.10
Case No. 76-96 (Medical Services)	
QUIBILAN, Juanito T.	86.63
Case No. 75-217	
RADIOLOGY ASSOCIATES INC.	43.59
Case No. 74-30 (Medical Services)	
RADIOLOGY ASSOCIATES INC.	8.84
Case No. 75-202 (Medical Services)	
RAPOZA, W. Vivian	150.00
Case No. 76-32	
REMPEL, Ermalinda M.	725.87
Case No. 76-108	
ROBERTSON, Donald W.	150.00
Case No. 74-37	
ROBINOL, Christina	7,308.75
Case No. 76-171	
ROBINSON, Gordon E.	350.00
Case No. 75-151	
RODRIGUES, Shirley A.	750.00
Case No. 75-65	
ROLLA, Ida Mae	1,007.50
Case No. 76-123	
ROMERO, Marta P.	9,516.20
Case No. 76-4	
RUBIN, Winona E.	600.00
Case No. 76-78	
RUFFOLO, Fred Jr.	965.39
Case No. 75-186	
SANCHEZ, Edward	300.00
Case No. 72-152	
SANCHEZ, John P.	200.00
Case No. 76-96	
SEIBEL, Mason E.	1,760.20
Case No. 76-135	
SHELDON, George K.	1,449.88
Case No. 72-42	
SHEPPARD, Kent	486.60
Case No. 76-35	
SHEPPARD, Maile	800.00
Case No. 76-34	
SHIMABUKURO, Herbert	140.00
Case No. 75-224 (Attorney for Eric Itokazu)	
SHIRLEY, Evan	100.00
Case No. 75-81 (Attorney for Jesse Lewis)	

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SHIRLEY, Evan	150.00
Case No. 75-111 (Attorney for Patrick Freitas)	
SHIRLEY & JORDAN LAW FIRM	35.00
Case No. 75-81 (Medical Report)	
SHIROMA, Edna K.	924.08
Case No. 75-237	
SHON, Evelyn C.	640.60
Case No. 72-70	
SIDICK, Mary Bosetti	2,092.72
Case No. 76-193	
SILVA, Janet Kong	1,949.00
Case No. 74-97	
SMITH, Edwin	250.00
Case No. 75-117 (Attorney for Phyllis A. Spurrier)	
SODINI, Reynold E.	469.68
Case No. 75-141	
SOLMSEN, Hans	75.00
Case No. 76-6	
SOUZA, Mary F.	63.00
Case No. 75-125	
SPURRIER, Phyllis A.	2,000.00
Case No. 75-117	
STETTLER, Patricia L.	3,921.40
Case No. 75-80	
STRATON, Andrew C.	869.94
Case No. 73-62	
STRAUB CLINIC & HOSPITAL	8,023.28
Case No. 74-157 (Medical Services)	
STRAUB CLINIC & HOSPITAL	282.82
Case No. 75-221 (Medical Services)	
STRAUB CLINIC & HOSPITAL	151.16
Case No. 75-222 (Medical Services)	
SUEHIRO, Lester K.	147.50
Case No. 75-1	
TABARANZA, Henry A.	1,929.57
Case No. 72-168	
TADEO, Nonito A.	1,147.98
Case No. 75-126	
TAYLOR, Laurence E.	50.00
Case No. 75-227	
TERUYA, Dr. Kazuo	676.00
Case No. 76-59 (Medical Services)	
THE EMERGENCY GROUP	93.60
Case No. 75-168 (Medical Services)	
THE EMERGENCY GROUP	46.80
Case No. 75-202 (Medical Services)	
THE EMERGENCY GROUP	154.44
Case No. 76-96 (Medical Services)	
TORRES, Dr. Ignacio	89.04
Case No. 74-30 (Medical Services)	
TRIEGER, Dona L.	1,000.00
Case No. 75-86	
TSUBAKI, Marjorie M.	297.13
Case No. 75-200	
TUA'AU, Vaeluaga S.	75.00
Case No. 75-206	

TUPA, Joseph S. Sr. Case No. 74-77	753.80
TURK & KUNIYUKI Case No. 75-192 (Attorney for Leilani O. Purdy)	25.00
UMALI, Makerita M. Case No. 76-114	400.00
VENABLE, Jackson G. Case No. 73-107	812.90
WALKER, Dr. Murray Case No. 75-231 (Medical Services)	30.36
WALL, Herbert G. Case No. 76-118	250.00
WATANABE, Dr. Carl Case No. 75-200 (Medical Services)	417.21
WATSON, Philip A. Case No. 75-202	3,152.40
WEIAND, Marilyn J. Case No. 75-106	123.53
WESTLEY, Robert Case No. 75-28	3,162.89
WILLIAMS, Harvey S. Case No. 75-197	852.78
WILSON, Margaret B. Case No. 75-152	701.37
WIZEK, Craig C. Case No. 76-178	150.00
WUNG, Alexander Jr. Case No. 76-7	297.83
YOSHIOKA, Terence T. Case No. 76-121 (Attorney for Toshiwo Iwamoto)	35.00
YOUNG, Edwin L. Case No. 75-190	1,492.68
YUDA, George S. Case No. 76-97 (Attorney for Dorothy Lagasca)	100.00
YUEN, Gilbert J.W. Case No. 75-51	284.49
ZORN, Mary A. Case No. 75-172	344.00
ZOULIAS, Andrew Case No. 76-116	565.28
MONTE, Henry D. Case No. 76-23	758.00

SECTION 2. The sums appropriated in section 1 of this Act shall be deposited into the criminal injuries compensation fund to be applied to making payments as authorized by the criminal injuries compensation commission.

SECTION 3. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1978, shall lapse into the general fund of the State.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1977.)

A Bill for an Act Relating to the Lapsing of Certain Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that in the past moneys have been appropriated for certain programs and purposes without any provision for the lapsing of unexpended or unrequired balances. The legislature further finds that from such prior appropriations, there remain appropriations and appropriation balances which are unencumbered. The existence of these pending appropriations obscures the true fund balance of the State general fund. The purpose of this Act, therefore, is to provide a lapsing provision for all such prior appropriations.

**SECTION 2.** Any law to the contrary notwithstanding, all unexpended and unencumbered balances of the appropriations made from the following acts as of the close of business on June 30, 1977, shall lapse into the general fund of the State: Acts 92, 112, 132, 135, 139, 141, 165, 197, 202, 217, and 232, Session Laws of Hawaii 1976; Acts 85 and 150, Session Laws of Hawaii 1975; Acts 184, 186, 188, 203, and 209, Session Laws of Hawaii 1974; Acts 81, 176, and 177, Session Laws of Hawaii 1973; Act 82, Session Laws of Hawaii 1972; Acts 155, 202, and 205, Session Laws of Hawaii 1971; and Acts 128 and 131, Session Laws of Hawaii 1970.

**SECTION 3.** Any law to the contrary notwithstanding, all unexpended and unencumbered balances of the appropriations made from the following acts as of the close of business on June 30, 1978, shall lapse into the general fund of the State: Act 219, Session Laws of Hawaii 1976; Act 237, Session Laws of Hawaii 1974; Act 194, Session Laws of Hawaii 1973; Acts 107 and 112, Session Laws of Hawaii 1971; and Act 190, Session Laws of Hawaii 1970.

**SECTION 4.** Any law to the contrary notwithstanding, all unexpended and unencumbered balances of the appropriations made from the following acts as of the close of business on June 30, 1979, shall lapse into the general fund of the State: Acts 62 and 243, Session Laws of Hawaii 1974; and Act 204, Session Laws of Hawaii 1973.

**SECTION 5.** This Act shall take effect upon its approval.

(Approved June 16, 1977.)

A Bill for an Act Relating to Witness Expenses in Criminal Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to establish the means of financing witness expenses required by county prosecutors and the public defender.

**SECTION 2.** Section 621-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 621-9 Witness expenses; budgetary procedure.** (a) Except as provided

for in section 802-7, whenever a witness subpoenaed on behalf of the State in a criminal case or on behalf of a defendant at the expense of the State in a criminal case is discharged, the clerk of the court shall issue to him under seal of the court, a numbered certificate from a book having a stub with like designations, stating the name of the witness, when and where he was summoned or subpoenaed, the date of his discharge, the number of miles necessarily traveled from his place of residence to the place of holding court, the number of day's service, and the amount due for transportation and for service. The certificate, when correct, must be so certified by the public prosecutor or county attorney for witnesses subpoenaed on behalf of the State, and by the public defender for witnesses subpoenaed on behalf of a defendant, but no certificate shall be so certified unless presented to him within twelve months after the date of issue. Duly certified witness certificates shall be paid upon vouchers approved by the state director of finance and warrants drawn by the state comptroller.

(b) Each public prosecutor or county attorney and the public defender shall submit to the state department of budget and finance for inclusion in the department's budget request for each fiscal biennium the amount required for each fiscal year for expenses for witnesses subpoenaed by him."

**SECTION 3. Appropriation.** There is hereby appropriated out of the general fund of the State the sum of \$160,947 for the fiscal year 1977-78 and the sum of \$169,160 for the fiscal year 1978-79, to be expended by the department of budget and finance for the purposes of this Act.

**SECTION 4.** Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 5.** This Act shall take effect upon July 1, 1977.

(Approved June 16, 1977.)

**ACT 8**

**H.B. NO. 15**

A Bill for an Act Relating to the Office of Revisor of Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** A new part is added to chapter 23G, Hawaii Revised Statutes, to read:

**"PART II. STATUTE REVISION AND PUBLICATION**

**Sec. 23G-11 Revisor of statutes.** The director of the office of the legislative reference bureau, or a member of the staff of the bureau delegated by the director, shall be the revisor of statutes of the State.

**Sec. 23G-12 Duties.** In performing the function of statute revision and publication of session laws, and supplements, and replacement volumes, the duties of the revisor of statutes, in order of priority shall be:

- (1) The publication of the session laws;

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\*Edited accordingly.

- (2) The publication of supplements to the revised statutes;
- (3) The publication of replacement volumes of the revised statutes;
- (4) The review of annotations to the revised statutes; and
- (5) The continuous revision of the statutes of Hawaii.

**Sec. 23G-13 Publishing of session laws.** As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by the session laws.

**Sec. 23G-14 Publication of supplements.** As soon as possible after the close of each regular session of the legislature, the revisor of statutes, subject to section 23G-15, shall prepare for publication a cumulative pocket part supplement to the last revision of the laws of Hawaii. The supplement shall contain all laws of a general and permanent nature enacted at any session of the legislature subsequent to the last revision of the laws and not included therein and a cumulative index of the material. The material in the supplement shall be arranged in the same order as like material is arranged in the last revision, shall show all sections repealed or amended, and shall be annotated to decisions and opinions subsequent to those included in the last revision.

**Sec. 23G-15 Supplements and replacement volumes; extent of revision; prima facie the law.** In preparing the supplements and replacement volumes, the revisor of statutes may:

- (1) Number and renumber chapters, sections, and parts of sections;
- (2) Rearrange sections;
- (3) Change reference numbers to agree with renumbered chapters, parts or sections;
- (4) Substitute the proper section or chapter numbers for the terms "the preceding section", "this act", and like terms;
- (5) Strike out figures where they are merely a repetition of written words;
- (6) Change capitalization for the purpose of uniformity;
- (7) Correct manifest clerical or typographical errors; and
- (8) Make such other changes in any act incorporated in the supplements and replacement volumes as shall be necessary to conform the style thereof as near as may be with that of the last revision of the laws of Hawaii; provided that in making the revision, he shall not alter the sense, meaning, or effect of any act.

The matter set forth in the supplements and replacement volumes shall be prima facie evidence of the law.

**Sec. 23G-16 Publication of replacement volumes.** The revisor of statutes may replace and bring up to date the permanent volumes of the revised laws. The revisor of statutes shall incorporate in the replacement volumes all laws enacted by the legislature since the volumes to be replaced were brought up to date. The replacement volumes shall be edited, made up, printed and bound to correspond as nearly as practicable with the present permanent volumes.

The replacement volumes shall be kept up to date by cumulative supplements.

**Sec. 23G-17 Printing; contracts.** The office of the legislative reference bureau shall cause sufficient copies of the session laws, supplements, and replacement volumes to be printed. The bureau may contract for the publications with or without regard to the laws governing public contracts or public printing. The completed volumes of the session laws, supplements, and replacement volumes shall be delivered to the lieutenant governor for distribution.

**Sec. 23G-18 Sale and distribution.** The session laws, supplements, and replacement volumes shall be sold and distributed by the lieutenant governor at a price fixed by him. The money received therefor shall be paid into the state treasury to the credit of the general fund. The lieutenant governor may furnish the session laws, supplements, and replacement volumes to public officials for official use free of charge.

**Sec. 23G-19 Review of annotations.** The revisor of statutes shall examine the annotations to the congressional acts and state statutes in the latest revised laws for the purpose of checking their accuracy and appropriateness and shall make the necessary corrections or other changes. The revised annotations, or appropriate parts thereof, when completed, shall be incorporated in the supplements and replacement volumes to the revisions of the laws of the State.

**Sec. 23G-20 Continous statutory revision.** The revisor of statutes shall conduct a systematic and continuing study of the laws of Hawaii for the purpose of reducing their number and bulk, removing inconsistencies, redundancies, unnecessary repetitions and otherwise improving their clarity. For these purposes the revisor shall:

- (1) Prepare and submit to the legislature, prior to each regular session thereof, a report as to defects in the laws and statutes of Hawaii, and draft in the form of bills and resolutions proposed legislation to carry out the recommendations contained in the report;
- (2) Prepare for submission to the legislature, from time to time, a rewriting and revision, either complete, partial, or topical of the laws of Hawaii."

SECTION 2. Section 23G-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 23G-3 General purposes of bureau.** The purpose of the office of the legislative reference bureau shall be:

- (1) To provide a comprehensive research and reference service on legislative problems for the legislature;
- (2) To conduct impartial research, including legal research, as may be necessary for the enactment of substantive legislation, upon request by the legislature, legislative committees, or legislators, or on its own initiative;
- (3) To disseminate its research findings to the legislature on all research projects undertaken upon the request of the legislature or legislative committees;
- (4) To secure reports of various officers and boards of the State as far as may be of the states and of the other territories of the United States and such other material, periodicals, or books as will furnish the fullest

information practicable upon all matters pertaining to current or proposed legislative problems;

- (5) To secure information for the legislature, legislative committees, and legislators by cooperating with the legislative reference services in the states and with the legislative service conference maintained by the council of state governments;
- (6) To maintain a reference library for use by the legislature and legislative service agencies. Subject to the priorities established by the director, reference materials may be made available to the various departments and agencies of the State and the general public;
- (7) To draft or aid in drafting bills, resolutions, memorials, and amendments thereto, including committee reports, for the legislature, legislative committees, and legislators when requested;
- (8) To control and maintain the operations of any legislative data processing program as may be established.
- (9) To serve, upon request, in an advisory capacity to the legislature and its committees on all matters within its competencies and responsibilities;
- (10) To assist, upon request, legislative service agencies on matters within its competency; and
- (11) To perform the function of statute revision and publication of session laws, supplements, and replacement volumes."

SECTION 3. Chapter 2, Hawaii Revised Statutes is repealed.

SECTION 44. Sections 23G-1 through 23G-4, Hawaii Revised Statutes, shall constitute part I of chapter 23G. Part I shall be titled "Office Generally".

SECTION 5. The functions of the office of the revisor of statutes are transferred to the office of the legislative reference bureau.

SECTION 6. All employees of the office of the revisor of statutes not subject to chapters 76 and 77, Hawaii Revised Statutes, are transferred to comparable positions within the office of the legislative reference bureau; provided, that no employee shall suffer any loss of salary, prior service credit, vacation, sick leave, or other employee benefit or privilege, as a consequence of the transfer.

SECTION 7. All employees of the office of revisor of statutes subject to chapters 76 and 77, Hawaii Revised Statutes, shall, with the same pay and classification, be transferred to positions within the judiciary for which they are eligible under the applicable personnel laws of the State, without any loss of seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege, and subsequent changes in statutes may be made pursuant to chapters 76 and 77, Hawaii Revised Statutes. Any employee of the office of revisor of statutes subject to chapters 76 and 77, Hawaii Revised Statutes, may elect to transfer to the office of the legislative reference bureau. If an employee elects to transfer to the bureau, the employee shall not thereafter be subject to chapters 76 and 77, Hawaii Revised Statutes, but the employee shall suffer no loss of salary, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of the transfer.

SECTION 8. Wherever in the Hawaii Revised Statutes the term "office of the revisor of statutes", or "office of the revisor", or any similar term appears, the term is amended to read "office of the legislative reference bureau", "legislative reference bureau", or "bureau" as appropriate.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary, to carry out the purposes of this Act. The sum appropriated shall be expended by the legislative reference bureau.

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 11. This Act shall take effect on July 1, 1977.

(Approved June 16, 1977.)

ACT 9

S.B. NO. 1

A Bill for an Act Relating to Capital Improvement Projects and Authorizing the Issuance of Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the General Improvements Act of 1977.

SECTION 2. The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated or authorized, as the case may be, to be expended by the Department of Accounting and General Services, unless otherwise specified in the subsection, out of moneys in the treasury received from general obligation bond funds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein that do not have funding specifically designated; provided that the sum total of the general obligation bonds so issued shall not exceed \$44,250,000.

I. COUNTY OF HAWAII

A. DEPARTMENT OF AGRICULTURE

(To be expended by the Department of Agriculture)

- |  |         |
|--|---------|
| 1. Vacuum Cooling Plant, Waimea, South Kohala, Hawaii                              | 280,000 |
| Plans and construction for improvements and expansion of the Vacuum Cooling Plant. |         |

B. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

- |  |        |
|--|--------|
| 1. Master Development and Economic and Historical Preservation Plan for Kailua, Kona, Hawaii | 25,000 |
| A master development and economic and historical preservation plan for                       |        |

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\*Edited accordingly.

## ACT 9

Kailua, Kona and surrounding area to be prepared by the Department of Planning and Economic Development in consultation with other appropriate state agencies.

### C. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

- |  |         |
|--|---------|
| 1. Motorcycle Training Facility, Hawaii  | 100,000 |
| Plans and construction for a motorcycle rider's training and recreation area, with some overnight camping and related facilities. Unexpended balances in Item I-B-4 of Section 91F of Act 226, Session Laws of Hawaii 1976 shall be used for this appropriation. |         |
| 2. Wailoa River State Park, Hawaii   | 75,000  |
| Plans and construction of improvements, including a mooring facility for small boats. Unexpended balances in Item I-B-5 of Section 91F of Act 226, Session Laws of Hawaii 1976 may be used for this appropriation.   |         |
| 3. Boating and Canoe Storage Facilities, Kawaihae, South Kohala, Hawaii  | 50,000  |
| Plans and construction of toilet and shower facilities.  |         |
| 4. Water System, South Kona, Hawaii  | 50,000  |
| Plans, land acquisition, construction of exploratory well, pipelines, pumping facilities and other appurtenances.  |         |

### D. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

- |  |         |
|--|---------|
| 1. Wailoa River Basin, Parking Facilities  | 125,000 |
| Plans and construction for parking facilities to include tour bus capabilities, and an open structure which may be used for open markets and marine related activities. Unexpended balances in Item I-B-4 of Section 91F of Act 226, Session Laws of Hawaii 1976 shall be used for this appropriation. |         |
| 2. Waiakea Peninsula Landing, Hawaii   | 25,000  |
| Plans and construction of a comfort station.   |         |

### E. DEPARTMENT OF EDUCATION

- |   |        |
|---|--------|
| 1. Hilo High School   | 25,000 |
| Plans and construction for improvements to Hilo High athletic field and track.                                      |        |
| 2. Honaunau Elementary School, South Kona, Hawaii   | 70,000 |
| Plans and construction for Albert Akana Cafetorium stage and toilets, equipment and appurtenances.                  |        |
| 3. Athletic Building, Papaikou, Hawaii  | 75,000 |
| Planning, design and construction of athletic building. To be supplemented by Item IVA-I-H-29 of Act 218, SLH 1974. |        |
| 4. Kaumana School, Hawaii   | 50,000 |
| Plans and construction of a multi-purpose dining room.  |        |
| 5. Laupahoehoe Elementary and High School, Hawaii   | 50,000 |
| Plans and construction for covered walkways.  |        |
| 6. Keauu Elementary and Intermediate School, Hawaii   | 40,000 |
| Plans and construction for classrooms and additional education facilities or support facilities.                    |        |
| 7. Keaukaha School, Hawaii  | 30,000 |
| Plans and construction of chain link fence around school grounds.   |        |
| 8. Mountain View Elementary and Intermediate School, Hawaii   | 40,000 |
| Plans and construction for classrooms and additional education facilities or support facilities.                    |        |

**K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

(To be expended by the Department of Social Services and Housing)

- |  |         |
|--|---------|
| 1. Komohana Houselots  | 250,000 |
| Plans and construction for the Komohana Houselots Subdivision including roads, utilities, water and necessary appurtenances. |         |

**W. COUNTY OF HAWAII**

(To be expended by the County of Hawaii)

- |  |         |
|--|---------|
| 1. Ka'u Public Safety Facilities, Hawaii   | 75,000  |
| Planning and construction of Ka'u Public Safety Facilities. Unexpended balances in Item II-N-21 of Section 91E of Act 226, Session Laws of Hawaii 1976, may be used for this project.  |         |
| 2. Ka'u Fire Station, Hawaii   | 25,000  |
| Planning and construction of new fire facility.  |         |
| 3. Puna Police Station Expansion, Hawaii   | 25,000  |
| Plans and construction for expansion of existing police station facility.  |         |
| 4. Road Improvements, 1st District, Hawaii   | 50,000  |
| Plans and construction for road improvements, construction to county standard.   |         |
| 5. Kaumana Drive Improvements, Hawaii  | 75,000  |
| Plans to widen and improve sharp horizontal curves and inadequate shoulders.   |         |
| 6. Saddle Road Improvements, Hawaii  | 50,000  |
| Plans and construction for realignment, widening, resurfacing segments of the existing Saddle Road including realignment of Horse Shoe Turn ("Dead Man's Curve").  |         |
| 7. Highway Improvement, North Kona   | 100,000 |
| Plans and construction to improve intersection of Kaiwi and Queen Kaahumanu Highway.   |         |
| 8. Kalapana Escape Road, Hawaii  | 50,000  |
| Land acquisition, planning and construction of road to replace portion of existing coastal road, or realignment of existing road to provide safe access.   |         |
| 9. Waikahe Road, Hawaii  | 20,000  |
| Plans and construction for road improvements to State Forest Reserve.  |         |
| 10. Cultural Center, Hawaii  | 100,000 |
| Planning and construction of a Cultural Center in the Banyan Drive area. Shall be supplemented by Section 72, Item I-D-1 of Act 218, SLH 1974, Section 91, Item II-M-1 of Act 195, SLH 1975, and Section 91F, Item I-M-1 of Act 226, SLH 1976. |         |
| 11. Keaukaha Community Center, Hawaii  | 50,000  |
| Plans and construction of facility.  |         |
| 12. Kalapana Community Center, Hawaii  | 15,000  |
| Plans for the construction of a community center.  |         |
| 13. Community Parks, 1st District, Hawaii  | 60,000  |
| Plans, development, and construction of park facilities; provided that funds may be used to supplement prior park appropriation in the 1st District.   |         |
| 14. Jogging Course at Hilo, Hawaii   | 10,000  |
| Plans and construction of a jogging course at the Bayfront Area, at Hilo, Hawaii.  |         |
| 15. Hilo Bayfront Park, Hawaii   | 100,000 |
| Plans and construction including alignment of Bayfront Highway.  |         |

## ACT 9

16. University Heights Park, Hawaii Plans and construction of neighborhood park.	50,000
17. Pahoa Neighborhood Park Plans and construction for development of Pahoa Neighborhood Park.	40,000
18. Hilo Sewerage Treatment Plant Expansion Plans and construction to modify the existing primary treatment plant to a secondary plant to comply with the Federal Water Pollution Control Act Amendments of 1972, federal funds to supplement.	50,000
19. Old Waiakea Mill Sewer Lines, Hawaii Plans to construct collection lines to serve old Waiakea Mill area.	50,000
20. Hilo Storm Drainage, Hawaii Plans and construction for incremental drainage improvements to city of Hilo pursuant to Drainage Master Plan.	50,000
21. Land acquisition, plans and construction for improvements pursuant to Hilo Downtown Development Plan, Phase I, (unexpended balances in Item II-N-6 of Section 91E of Act 226 Session Laws of Hawaii 1976, shall be used for this purpose).	160,000
22. Kailua-Kona Public Safety Sub-station, Hawaii Plans and construction of a public safety sub-station.	50,000
23. Orchidarium, Hawaii Plans and construction of orchidarium in Hilo area.	50,000
24. Easter Seal Society for Crippled Children and Adults of Hawaii County, Hawaii Plans and construction of new Easter Seal facilities.	200,000
25. Hilo Veterans Cemetery, Hawaii Plans and construction for Hilo Veterans Cemetery Expansion.	50,000

### WW. COUNTY OF HAWAII

(To be expended by the Water Commission)

1. Baseyard Facilities, Ka'u Water Development System Improvement Plans and construction of baseyard, office and warehouse space.	25,000
2. Haina Water System, Hawaii Plans and construction for approximately 5,000 feet of pipelines, a 100,000-gallon reservoir and a pressure reducing valve.	160,000
3. Hamakua Water Development Plans and construction for incremental development of water system, including source development, pipelines, booster pump stations, and storage facilities; and land and source acquisition including approximately 5,000 feet of pipeline, a 100,000-gallon reservoir and a pressure reducing valve for Haina.	150,000
4. Ka'u Water System Improvement, Hawaii Plans and construction for turbidity controls and baseyard facilities.	50,000
5. Kaaau-Pahoa Trunk Line Plans and construction for completion of ground water source development and construction of storage facilities and connection lines.	75,000
6. Kehena Ditch Water Project Land acquisition, plans and construction including development, pumps, pipelines and storage facilities at the Kehena Ditch Water Source.	250,000
7. Komohana Transmission Lines, Hawaii Plans and construction for installation of large transmission line for continuous groundwater supply to the Waiakea Homesteads area to enable present surface source to be used only in emergencies.	50,000

8. Papaikou Water System Improvements, Hawaii	125,000
Incremental development of water system, including plans and construction of source development, pipelines, booster pump stations, and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition. Appropriation may be used to extend pipeline to Onomea.	
9. Pepeekeo Water Development	150,000
Plans and construction for incremental development of water system, including source development, pipelines, booster pump stations, and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition.	
10. Pohakea, Hamakua, Hawaii	20,000
Plans and construction for installation of water booster pump electrical controls, electrical power and appurtenances.	
11. Puna Water Development, Hawaii	100,000
Plans and construction for Olaa, Kurtistown, Mountain View Water System and Keaau-Pahoa Trunk Line.	
12. North Hilo Water Development—Kihalani Homesteads, Hawaii	250,000
Incremental development of water system, including plans and construction of source development, pipelines, booster pump stations, and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition.	
13. North Kohala Water Development, Hawaii	50,000
Incremental development of water system, including plans and construction of source development, pipelines, booster pump stations, and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition.	
14. Olaa Flume Spring Development, Hawaii	50,000
Plans and construction for installation of storage reservoirs and a transmission line to transport water from Olaa Flume Spring to the upper Kaumana area to comply with the Safe Drinking Water Act.	
15. Turbidity Controls, Ka'u Water System Improvement	20,000
Plans and construction for installation of turbidity controls to automatically shut off surface water when turbidity exceeds acceptable limits.	
16. Wailuku-Alenaio Watershed Project, Hawaii	100,000
Plans and construction of drainage facilities in the upper Kaumana area. A joint project with the U.S. Soil Conservation Service.	
17. Water Extension Projects	35,000
Plans and construction for upper Kalopa homesteads and upper Wainaku region—extension from main trunk line.	
18. North Kona Water System, Hawaii	50,000
Plans, land acquisition, and construction of storage and transmission facilities for the North Kona Water System from Kalaoa to Huehue.	
19. Water System, South Kona, Hawaii	125,000
Okoe Exploratory Well, land acquisition, planning and construction of an exploratory well, including the drilling, testing and related appurtenant works.	

## II. COUNTY OF MAUI

### A. DEPARTMENT OF AGRICULTURE

(To be expended by the Department of Agriculture)

1. Vacuum Cooling Plant, Omaopio, Maui	270,000
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## ACT 9

Plans and construction for improvements and expansion of vacuum cooling plant including loading dock, parking and access roads, security fence, fork lift, and other appurtenances to supplement prior appropriation.

### D. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

- |  |         |
|--|---------|
| 1. Hana Belt Road, Nahiku to Hana<br>Plans and construction of improvements of Hana Belt road, Nahiku to Hana.   | 250,000 |
| 2. Piilani Highway Improvements<br>Plans and construction of a new highway from Kihei to Ulupalakua.   | 40,000  |
| 3. Hana Highway Improvements, Lower Paia, Maui<br>Plans and construction of a sidewalk at Hana Highway, Lower Paia town to Lower Paia Community Center. Unexpended balances in Item II-K-10 of Act 176, SLH 1972 may be used for this project.   | 1,000   |
| 4. Puunene Avenue Improvements, Kahului, Maui<br>Plans and construction of a sidewalk at Puunene Avenue, Kahului, Maui. Unexpended balances in Item II-K-10 of Act 176, SLH 1972 may be used for this project.   | 1,000   |
| 5. Kaunalapau Highway Improvements, Lanai<br>Plans and construction of truck escape ramps.   | 80,000  |
| 6. Kahului Small Boat Launching Ramp, Maui<br>Plans and construction to improve channel exposed to reef at vicinity of boat launching ramp. Unexpended balances in Item IV-H-16, of Act 218, SLH 1974, Item IV-H-17 of Act 195, SLH 1975, and Item IVA-H-30 of Act 226, SLH 1976 may be used for this project. | 1,000   |
| 7. Maalaea Small Boat Harbor Improvements, Maui<br>State advance of Federal funds for plans to improve Maalaea Small Boat Harbor. Unexpended balances in Item IV-H-16 of Act 218, SLH 1974, Item IV-H-17 of Act 195, SLH 1975, and Item IVA-H-30 of Act 226, SLH 1976 may be used for this project.            | 1,000   |
| 8. Mala Wharf Improvements, Maui<br>Plans and construction of walkways and improvements at Mala Wharf, Lahaina. Unexpended balances in Item IV-H-16 of Act 218, SLH 1974, Item IV-H-17 of Act 195, SLH 1975 and Item IVA-H-30 of Act 226, SLH 1976 may be used for this project.                               | 1,000   |
| 9. Olowalu Boat Launching Ramp, Maui<br>Plans and construction of a boat launching ramp at Olowalu, including parking area. Unexpended balances in Item IV-H-16 of Act 218, SLH 1974, Item IV-H-17 of Act 195, SLH 1975 and Item IVA-H-30 of Act 226, SLH 1976 may be used for this project.                   | 1,000   |
| 10. Kaunakakai Small Boat Harbor Improvements, Molokai<br>Plans and construction of improvements to Kaunakakai Small Boat Harbor. Unexpended balances in Item IV-H-16 of Act 218, SLH 1974, Item IV-H-17 of Act 195, SLH 1975 and Item IVA-H-30 of Act 226, SLH 1976 may be used for this project.             | 1,000   |

### E. DEPARTMENT OF EDUCATION

- |  |         |
|--|---------|
| 1. Baldwin High School, Maui<br>Plans and construction for a multi-purpose room for physical education and athletic activities such as gymnastics, dancing, wrestling, martial arts, weightlifting, and body dynamics. | 100,000 |
|--|---------|

2. Hana High and Elementary School, Maui	200,000
Plans and construction of a gymnasium to supplement prior appropriation.	
3. Kahului School, Maui	33,000
Plans and construction for the installation of a public address intercom system and program clock and extension of storage warehouse, and installation of air conditioning unit for office. Supplements prior appropriations.	
4. Kaunakakai School, Molokai	30,000
Construction of a custodial storage and work room and installation of a sprinkler system and other improvements.	
5. Kaunakakai School, Molokai	50,000
Plans and construction for four classroom buildings, parking area, and other improvements.	
6. Kilohana Elementary School, Molokai	45,000
Plans and construction of a new Kitchen/ Dining facility and other improvements.	
7. Kualapuu School, Molokai	50,000
Plans and construction of a multi-purpose room for approximately 150 people and other improvements.	
8. Lahainaluna School, Maui	100,000
Plans and construction of a new library and renovation of old library into classroom buildings and other improvements.	
9. Lanai High and Elementary School, Lanai	265,000
Plans and construction of a Vocational Shop Complex and other improvements.	
10. Lanai High and Elementary School, Lanai	70,000
Plans and construction of classroom building and other improvements.	
11. Lanai High and Elementary School, Lanai	50,000
Plans and construction for renovation of old library into offices and construction of covered walkway and other improvements.	
12. New Makawao Intermediate School, Maui	256,000
Land acquisition, plans and construction of classroom buildings.	
13. Maui High School, Maui	1,000,000
Plans and construction of a gymnasium to supplement prior appropriation. Unexpended balances in Item II-C-7 of Act 176, SLH 1972 may be used for this project.	
14. Maunaloa School, Molokai	65,000
Renovation of 2 classroom buildings and fencing around the school and other improvements.	
15. Paia School, Maui	7,000
Plans and construction for covered walkways.	
<b>F. UNIVERSITY OF HAWAII</b>	
1. Maui Community College, Maui	50,000
Plans and construction of an auditorium complex, and other improvements.	
<b>H. DEPARTMENT OF HEALTH</b>	
(To be expended by the Department of Health)	
1. Hale Makua, Maui	250,000
Plans and construction of a long-term care facility at Kahului, Maui to supplement prior appropriation. Grant-in-aid.	

## ACT 9

### I. DEPARTMENT OF HAWAIIAN HOME LANDS

(To be expended by the department of Hawaiian Home Lands)

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|---|--------|
| 1. Paukukalo, Hawaiian Homes Development, Maui  | 40,000 |
| Plans and construction of tennis courts at Paukukalo, Hawaiian Homes Development, and other improvements. |        |

### V. COUNTY OF MAUI

(To be expended by the County of Maui)

- |   |        |
|---|--------|
| 1. Elderly Day Care Center, Maui  | 50,000 |
| Plans and construction of an elderly day care center.   |        |
| 2. Iao Stream Flood Control, Wailuku, Maui  | 1,000  |
| Plans and construction of a flood control project and other improvements. Funds from the following Acts may be used for this purpose: Part IV, item H-16, Act 218, SLH 1974; Part IV, item H-17, Act 195, SLH 1975; Part IVA, item H-30, Act 226, SLH 1976. |        |
| 3. Lahaina Community Center, Maui   | 50,000 |
| Plans and construction of a community center and other improvements at Shaw Street, Lahaina, Maui to supplement prior appropriation.  |        |
| 4. Lanai Sewer, Lanai   | 1,000  |
| Plans and construction of a sewer system at Lanai City, Lanai. Unexpended balances in Item II-K-7 of Act 176, SLH 1972 may be used for this project.  |        |
| 5. Lipoa Street Improvements, Kihei, Maui   | 40,000 |
| Plans and construction of improvements at Lipoa Street, Kihei, Maui.  |        |
| 6. Wailuku Community Center, Maui   | 50,000 |
| Plans, land acquisition and construction of a Community Center to be located in or near Happy Valley in Wailuku, Maui, and other improvements.  |        |

### III. CITY AND COUNTY OF HONOLULU

#### B. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

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|--|---------|
| 1. Grants-in-aid, Oceanic Institute, Oahu  | 131,000 |
| Plans and construction of Salt Water System, including a well, motors, maintenance of experimental and demonstration holding of marine shrimp.   |         |
| 2. Grants-in-aid, Oceanic Institute, Oahu  | 108,000 |
| Plans and construction for Covered Holding Tanks for holding of population of marine shrimp. Will be used for experimentation on reproduction and evaluation of stocks.  |         |
| 3. Grants-in-aid, Oceanic Institute, Oahu  | 67,000  |
| Plans and construction for Outdoor Lined Ponds. Maintenance of stocks and grow out studies of marine shrimp, tropical marine aquarium fish and baitfish holding.   |         |
| 4. Grants-in-aid, Oceanic Institute, Oahu  | 97,000  |
| Plans and construction for Water Management Facility. Controlled pond aquaculture depends on the understanding and managing of water quality, matching it to the species being grown. This facility will allow the study of the tolerances of marine shrimp, aquarium fish and other species, and so make possible the reliable and economic management of pond production environments. |         |
| 5. Grants-in-aid, Oceanic Institute, Oahu  | 116,300 |
| Plans and construction for Marine Shrimp Development and Marine Aquarium Fish Development.   |         |

- |   |         |
|---|---------|
| 6. Grants-in-Aid, Oceanic Institute, Oahu   | 70,000  |
| Plans and construction for Paving and Fencing of Outside Facilities. Valuable stocks and experiments must be protected. Funding will provide access to facilities and security.             |         |
| 7. Anuenue Fisheries Research Center, Oahu  | 313,700 |
| Plans and construction for a basic research laboratory and facility to support aquaculture development for cooperative efforts between the academic community and the aquaculture industry. |         |
| 8. Anuenue Fisheries Research Center, Oahu  | 22,000  |
| Plans and construction for ponds and holding tanks.   |         |

#### C. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

- |  |           |
|--|-----------|
| 1. Diamond Head State Monument, Oahu   | 75,000    |
| Development of a Long Range Master Plan for all State lands surrounding Diamond Head Crater Park.  |           |
| 2. Heeia State Park—(Matson Point—Heeia Fish Pond), Oahu   | 1,000     |
| Acquisition, planning, design and development of Matson Point—Heeia Fish Pond into a state park and historic recreational area to be expended by DLNR. Unexpended balances in Section 7, Item IV-A-2 of Act 218, SLH 1974 will be used for this appropriation.   |           |
| 3. Kahala Heights Park, Oahu   | 123,000   |
| Plans and construction for development, including recreational equipment along with the improvement and monitoring of grounds and vegetation. The unexpended funds from Act 195, Session Laws of Hawaii 1975, Item N-22-5, earmarked for expenditure by the City and County, may be used for this project.   |           |
| 4. Kaiaka Point Beach Park, Waialua, Oahu  | 360,000   |
| Plans and construction for demolition, grading, landscaping, construction of roadways, parking facilities, utilities and picnic facilities.  |           |
| 5. Kakaako Waterfront Park, Oahu   | 250,000   |
| Plans and construction for the development of a waterfront park and recreational facilities.   |           |
| 6. Kawainui Marsh Study, Oahu  | 1,000     |
| Basic scientific studies of hydrology, geology and topography, ecology, water quality analysis, land uses, special features and archaeology, and recreation demand. (Unexpended balances in Item IV-N-3-1 of Act 195, Session Laws of Hawaii 1975 will be used for this project).  |           |
| 7. Kuliouou Valley Park, Oahu  | 7,300     |
| Planning and construction for development of recreational and other public facilities and improvements for a park at Kuliouou Valley, Oahu. Supplements prior appropriation.   |           |
| 8. Makiki Ditch, Oahu  | 180,000   |
| Planning and engineering, construction and inspection of stream cover over Makiki Ditch from Nehoa Street to below Dominis Street.   |           |
| 9. Makiki-Tantalus State Park, Oahu  | 25,000    |
| Reactivation and construction of trails. Supplemental appropriation.   |           |
| 10. Malaekahana Beach Park, Oahu   | 1,790,000 |
| Incremental acquisition by direct purchase, exchange or otherwise planning and construction of TMK 5-6-01: 6, 7, 11 thru 23, 26 thru 44, 48, 50, 52, including future acquisition of adjacent parcels TMK 5-6-01: 24, 25, 46, 47, 49, 51, 53 thru 65. Funds may be matched by federal funds as available. PROVISIO: As per letter of April 13, 1977 from the Estate of James Camp- |           |

## ACT 9

bell to the Department of Land and Natural Resources it is our intention that the administration be given the flexibility to enter into an immediate agreement for Phase II of Malaekahana Park and at the same time begin condemnation and acquisition of Phase III as soon as possible.

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|--|---------|
| 11. Queen's Beach, Oahu  | 500,000 |
| Incremental acquisition, plans and construction of Queen's Beach for park use. Unexpended balances Item I-B-5, Sec. 2, Act 176, SLH 1972, Item IV-A-11, Sec. 72A, Part IVA, Sec. 7, Act 218, SLH 1974, Item B-22-2, Sec. IV, Part VI, Sec. 91, Act 195, SLH 1975, Item III-B-4, Sec. 91F, Act 226, SLH 1976, and the unexpended balances in Item IVA-H-19, Sec. 6, Act 226, SLH 1976 and Items IV-L-5 and IV-N-49, Sec. 91E and Item III-N-32, Sec. 91F of Part VIA as amended by Sec. 7 of Act 226, SLH 1976 shall be used in conjunction with the new appropriation. |         |
| Priority in acquisition should be given but not limited to the area lying within approximately 500 feet from the shoreline and extending from the existing county Koko Head Sandy Beach Park towards the Makapuu light house access road.  |         |
| 12. Sixth Senatorial District Parks, Oahu  | 830,000 |
| Acquisition, planning and construction of parks in the Sixth Senatorial District.  |         |
| 13. Waahila Ridge State Park, Oahu   | 65,000  |
| Planning and construction of a caretaker's cottage at Waahila Ridge State Park, Honolulu, Oahu.  |         |
| 14. Waipahu Cultural Graden Park, Oahu   | 10,000  |
| Plans, engineering and construction for Phase I.   |         |
| 15. Waianae Hawaiian Heritage and Culture Center, Oahu   | 35,000  |
| Plans and construction for grounds, site, and sewer improvements.  |         |

### D. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

- |  |         |
|--|---------|
| 1. California Avenue, widening and improvement, Wahiawa, Oahu  | 37,500  |
| Plans and engineering of the widening and improvement of California Avenue from Cane Street to Uuku Street.  |         |
| 2. Castle High School, Oahu  | 32,200  |
| Plans and construction to cover open gutter fronting school.   |         |
| 3. Civil Air Patrol, Hawaii Wing, Oahu   | 466,500 |
| Land acquisition, plans and construction of a multi-purpose building with offices, meeting room, dormitory accommodations, fencing and parking facilities. |         |
| 4. Farrington Highway Safety Improvements, Oahu  | 150,000 |
| Plans and construction of traffic signal lights at the following locations:  |         |
| a. Farrington Hwy.—Hakimo Road   |         |
| b. Farrington Hwy.—Maililili Road  |         |
| c. Farrington Hwy.—Barber's Pt. Access Rd.   |         |
| d. Farrington Hwy.—Pupupuhi Street   |         |
| 5. Fort Weaver Road at Hanakahi Street, Ewa Beach, Oahu  | 50,000  |
| Plans and construction for a left lane storage on Fort Weaver Road.  |         |
| 6. Helelua Street and Farrington Highway, Oahu   | 80,000  |
| Planning, designing and construction of stop lights at Farrington Highway and Helelua Street.  |         |
| 7. Hui Iwa Street and Kahekili Highway, Kahaluu, Oahu  | 62,800  |
| Plans and construction for left turn lane and other traffic safety improve-  |         |

ments at the intersection of Hui Iwa Street and Kahekili Highway, Kahaluu, Oahu.	
8. Ihiihi Avenue Improvement, Wahiawa, Oahu	10,000
Plans and construction for installation of a storm drainage pipe off Ihiihi Avenue.	
9. Kalaniana'ole Highway, Oahu	75,000
Plans and construction to install traffic light on Kalaniana'ole Highway near Kailua Drive-in theater and the Quarry Road.	
10. Kalaniana'ole Highway, Oahu	75,000
Plans and construction to install traffic light on Kalaniana'ole Highway and Aulua Road.	
11. Kalaniana'ole Highway, Oahu	25,000
To improve Kalaniana'ole Highway from Ainakoa to Hawaii Kai.	
12. Kamehameha Highway Safety Improvements, Oahu	50,000
Plans and construction of safety improvements along Kamehameha Highway between Kahaluu to Hauula.	
13. Kamehameha Highway Street Lights, Oahu	1,000
Planning and construction of street lights on Kamehameha Highway between Meheula Parkway and Lanikuhana Avenue. Unencumbered balances in Item B-4, Act 218, Session Laws of Hawaii 1974, to be used for this project in conjunction with new appropriation.	
14. Keehi Marina Leeward Protective Berm, Oahu	50,000
Plans and construction for installation of safety and informational signs, waterline, sanitary facilities and other necessary improvements.	
15. Likelike Highway, Oahu	15,000
Plans and construction to install additional guard rails along the median strip on Likelike Highway, Kaneohe.	
16. Private Roadways, Oahu	105,000
Survey, planning, purchase, and paving and repair of private roadways throughout the 15th Representative District.	
17. Public Boat Launching Ramp, Pearl Harbor, Oahu	50,000
Planning and construction of public boat launching ramp, including service pier and parking facilities for vehicles and trailers.	
18. Public Fishing Pier, Pearl Harbor, Oahu	90,000
Plans and construction of public fishing pier in Pearl Harbor.	
19. Ulupii Street, Oahu	5,000
Plans and construction to install guard rails at Ulupii Street and Kalaniana'ole Highway on both sides.	
20. University Avenue Interchange, H-1 Freeway, Oahu	50,000
Planning, design, and construction for highway improvements.	
21. Waimea Bay Footbridge, Haleiwa, Oahu	69,500
Plans and construction of a footbridge across Kamehameha Highway near Waimea Bay.	
<b>E. DEPARTMENT OF EDUCATION</b>	
1. Aiea Elementary School, Oahu	35,000
Plan and construct paved playcourt.	
2. Aiea Elementary School, Oahu	32,000
Plan and construct sprinkling system and ground improvements.	
3. Aiea High School, Oahu	150,000
Planning and construction for renovation of Physical Education Building	

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(G) to accommodate activities for weight training, wrestling and judo.	
4. Aiea Intermediate School, Oahu	100,000
Plan and construct paved playcourt. To be supplemented by prior appropriation.	
5. Aikahi Elementary School, Oahu	50,000
For plans and construction of special classrooms for physical education, music, art and science, including equipment for these classrooms.	
6. Aikahi Elementary School, Oahu	120,000
For plans and construction of special classrooms for physical education, music, art and science, including equipment for these classrooms.	
7. Aikahi Elementary School, Oahu	20,000
Plans and construction for Administration Building.	
8. Aikahi Elementary School, Oahu	25,000
Plans and construction of paved playcourts.	
9. Aikahi Elementary School, Oahu	85,000
Plans and construction for renovation and improvements to library.	
10. Aina Haina Elementary School, Oahu	20,000
Plans and construction for site improvement and repainting of interior and exterior building walls.	
11. Aina Haina Elementary School, Oahu	10,000
Plans and construction for renovation of library.	
12. Aliamanu Elementary School, Oahu	5,000
Plans and construction for the improvement of bus loading zoning for safety reasons (would serve both elementary and intermediate schools).	
13. Aliamanu Intermediate School, Oahu	23,000
Plans and construction for drainage system. Supplements prior appropriation.	
14. Aliamanu Intermediate School, Oahu	125,000
Plans and construction for expansion and renovation of library.	
15. Aliiolani Elementary School, Oahu	45,100
Plans and construction for repairs to existing facilities.	
16. Aliiolani Elementary School, Oahu	100,000
Plans and construction for renovation or demolition of existing auditorium and the construction of hard surface playcourt.	
17. Aliiolani School, Oahu	1,000
Plans and construction for demolition of existing auditorium and the construction of a hard surface playcourt. Item E-5, Act 218, Session Laws of Hawaii 1974, may be used for this project.	
18. Aliiolani Elementary School, Oahu	20,000
Plans and construction for ground improvements.	
19. Aliiolani School, Oahu	1,000
Plans and construction for a stage with dressing and storage rooms according to statewide educational specifications and standards.	
20. Alvah A. Scott Elementary School, Oahu	119,500
Plans and construction for expansion and improvements of the existing library.	
21. Castle High School, Oahu	185,000
Replacement of lights for football field.	
22. Castle High School, Oahu	37,500
Plans and construction for renovation and improvement of Castle High School cafetorium.	

23. Castle High School, Oahu	10,000
Plans and construction for installation of chain-link fence around farm area.	
24. Castle High School, Oahu	37,500
Plans and construction for renovation and improvement of cafetorium.	
25. Dole Intermediate School, Oahu	30,000
Plans and construction to improve, renovate and repair locker rooms.	
26. Dole Intermediate School, Oahu	200,000
Plans and construction to renovate six classrooms into four science classrooms and two science laboratories.	
27. Enchanted Lake Elementary School, Oahu	75,000
Plans and construction for renovation of classrooms for Administration Building.	
28. Ewa Beach Elementary School, Oahu	40,000
Plans and construction of new exit, entrance and drainage to mauka parking lot.	
29. Ewa Beach Elementary School, Oahu	200,000
Plans and construction of dining room, or renovate existing circular building into dining room, ground and site improvements.	
30. Ewa School, Oahu	42,000
Supplementary funds for plans and construction for a serving kitchen-dining room, demolition of old kitchen, and ground and site improvements.	
31. Farrington High School, Oahu	15,000
Plans and construction for retaining wall for safety reasons.	
32. Farrington High School, Oahu	5,000
Plans and construction for major electrical (wiring) repairs to Photography Room.	
33. Farrington High School, Oahu	3,000
Plans and construction for three wind protector shields for tennis courts.	
34. Farrington High School, Oahu	70,000
Plan and construct greenhouse (Science).	
35. Gus Webling Elementary School, Oahu	106,000
Plans and construction for renovation of existing open space classroom (Building C) into special classroom for art, science and music.	
36. Hale Kula Elementary, Oahu	1,000
Plans and construction for a paved playcourt. Unencumbered balances in Item G-15, Act 195, Session Laws of Hawaii 1975, to be used for this project.	
37. Haleiwa Elementary School, Oahu	50,000
Plans and construction to demolish building and ground improvements.	
38. Hauula Elementary School, Oahu	20,000
Plans and construction of ground improvements and chain-link fencing.	
39. Hawaii Association for Retarded Children, Ruger Center, Oahu	95,000
Plans and construction for a classroom building together with storage facilities.	
40. Hawaii School for the Deaf and the Blind, Oahu	27,800
Plans and construction for renovating present classrooms for physical education purposes.	
41. Hawaii School for the Deaf and the Blind, Oahu	10,000
Planning and construction of a lanai.	
42. Hawaii School for the Deaf and the Blind, Oahu	50,000
Plans for a gymnasium.	

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43. Heeia Elementary School, Oahu	22,500
Plans and construction to install folding doors for classroom and multi-purpose room.	
44. Heeia Elementary School, Oahu	30,000
Plans and construction of parking lot, bus loading area and driveway improvements and extension.	
45. Helemano Elementary School, Wahiawa, Oahu	35,000
Plan and construct chain-link fence around school boundary.	
46. Hickam Elementary School, Oahu	20,000
Plans and construction for a health aide room where students can go when they are sick and where the JPO can change into uniforms.	
47. Highlands Intermediate School, Oahu	120,000
Plans and construction to renovate science classrooms, including ground and site improvements.	
48. Highlands Intermediate School, Oahu	50,000
Plans and construction for ground and site improvements.	
49. Highlands Intermediate School, Oahu	100,000
Plans and construction to implement Complex Development Report. Funds from prior appropriations may be used to supplement this appropriation.	
50. Hokulani Elementary School, Oahu	150,000
Plans and construction of art, music and science building.	
51. Iliahi Elementary School, Wahiawa, Oahu	35,000
Plan and construct pavement between buildings A and D.	
<del>52. Jarrett Intermediate School, Oahu</del>	<del>125,000</del>
<del>Plans and construction to provide musical instruments for the band.</del>	
<del>[Vetoed]</del>	
53. Jarrett Intermediate School, Oahu	20,000
Plans and construction of walkways and classroom buildings.	
54. Jarrett Intermediate School, Oahu	75,000
Plans and construction for renovation of all necessary buildings.	
55. Jefferson Elementary School, Oahu	45,100
Plans and construction for repairs to existing facilities.	
56. Kaewai Elementary School, Oahu	10,000
Plans and construction for new grease trap outside the cafeteria.	
57. Kaewai Elementary School, Oahu	10,000
Plans and construction for metal screens over louver windows.	
58. Kahala Elementary School, Oahu	10,000
Plans and construction for renovation of administration counter.	
59. Kahala Elementary School, Oahu	40,000
Plans and construction for conversion of library to art and music centers.	
60. Kahala Elementary School, Oahu	25,000
Plans and construction for repair and replacement of jalosies, new electric outlets and sliding doors; interior and exterior repainting of buildings.	
61. Kahaluu Elementary School, Oahu	35,000
Plans and construction of paved playcourt, baseball back stop and ground improvements.	
62. Kahuku Elementary School, Oahu	35,000
Plans and construction of paved playcourt, baseball backstop, and ground improvements.	

63. Kahuku High School, Oahu	70,000
Planning and construction for renovation of classrooms for special education program.	
64. Kahuku High School, Oahu	47,000
Plans and construction for renovation of classrooms for Special Education Program.	
65. Kailua Elementary School, Oahu	5,000
Plans and construction for extension of chain-link fence.	
66. Kailua High School, Oahu	10,000
Plans and construction for general repairs and improvements to Reading Center.	
67. Kailua High School, Oahu	30,000
Plans and construction for athletic field improvements to include: repair, strengthen and paint fence; renovate public address system; and complete renovation of field.	
68. Kailua High School, Oahu	162,000
Plans and construction for improvements to the athletic field, including the replacement of a press box and the relocation of portable bathrooms.	
69. Kailua High School, Oahu	50,000
Plans and construction for renovation of classrooms.	
70. Kailua Intermediate School, Oahu	60,000
Plans and construction for renovation and improvement of cafetorium.	
71. Kaimuki Intermediate School, Oahu	70,000
Planning and construction for improvement of drainage of rainwater from 18th Avenue that causes flooding and accumulation of mud puddles for long duration.	
72. Kaimuki Intermediate School, Oahu	10,000
Plans and construction of irrigation system in the front of Building C and Ewa of Band Building.	
73. Kaimuki Intermediate School, Oahu	2,000
Plans and construction for six-inch water hydrant around Building J or area by cafeteria and shop.	
74. Kaimuki Intermediate School, Oahu	95,100
Plans and construction for repairs to existing facilities.	
75. Kaimuki Intermediate School, Oahu	8,000
Plans and construction for installation of acoustical tiles in four science classrooms.	
76. Kaimuki Intermediate School, Oahu	3,000
Plans and construction for storage area to be built in open space under stairs of Building K for storage of lawn mowers and other lawn maintenance equipment.	
77. Kaimuki Intermediate School, Oahu	2,000
Installation of pull fire stations and bells in shop, cafeteria and Ewa end of Building C.	
78. Kaimuki Intermediate School, Oahu	3,000
Plans and construction of protective railing between "J" building and Diamond Head side of cafeteria.	
79. Kaimuki Intermediate School, Oahu	1,000
Plans and construction for extension of rain gutter to cover Rooms R-101, R-102, R-103, and R-104, Science Building.	

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80. Kaimuki Intermediate School, Oahu	340,000
Construction of a gym recreation building complex at Kaimuki Intermediate School. Supplements prior appropriations made for this purpose.	
81. Kaimuki High School, Oahu	237,000
Planning and construction of new music complex, and renovation of old facility.	
82. Kaimuki High School, Oahu	20,000
Planning for improvements of existing track, football field and chain link fence on Koko Head side of campus.	
83. Kaimuki High School, Oahu	43,000
Plans for the construction of music building and other improvements.	
84. Kaimuki High School, Oahu	32,950
Plans and construction of chain link fencing on mauka side of athletic field and other renovations.	
85. Kaimuki High School, Oahu	200,000
Plans and construction for improvements to athletic field, including renovations.	
86. Kainalu Elementary School, Oahu	25,000
Plans and construction of paved playcourts.	
87. Kainalu Elementary School, Oahu	45,000
Planning and construction of parking lot improvements and extension.	
88. Kaiser High School, Oahu	150,000
Plans and construction to renovate gym floor from tartan rubber to wood.	
89. Kaiser High School, Oahu	25,000
Plans and construction for portable bleachers for stadium.	
90. Kaiser High School, Oahu	50,000
Plans and construction for installation of lights in the mall area (parking lot to cafeteria).	
91. Kaiser High School, Oahu	149,000
Plans and construction of auditorium.	
92. Kaiulani Elementary School, Oahu	5,000
Plans and construction for air conditioning of Administration Building.	
93. Kalaheo High School, Oahu	190,000
Supplementary funds for gymnasium.	
<del>94. Kalaheo High School, Oahu</del>	<del>190,000</del>
<del>Supplementary funds for gymnasium. [Vetoed]</del>	
95. Kalaheo High School, Oahu	35,000
Plans and construction for ground and drain improvements.	
96. Kalaheo High School, Oahu	90,000
Planning and construction for renovation and expansion of wood and metal shops and classroom, and special education program.	
97. Kalakaua Intermediate School, Oahu	15,000
Plans and construction for installation of heavy gauge security screens over windows and transoms of Buildings E, J, L, R, G, H, F, O, and Q (transom), T (itinerant specialist) to prevent easy access into classrooms.	
98. Kalakaua Intermediate School, Oahu	3,000
Plans and construction for completion of walkways.	
99. Kalakaua Intermediate School, Oahu	30,000
Plans and construction for installation of heavy gauge security screens.	

100. Kalakaua Intermediate School, Oahu	7,500
Plans and construction for installation of wall between Q101 and Q102.	
101. Kalani High School, Oahu	45,100
Plans and construction for repairs to existing facilities.	
102. Kalani High School, Oahu	50,000
Plan and construct improvements, renovation, and expansion to existing facilities, including but not limited to the following: Gymnasium, support facilities, and student activities. Supplements prior appropriations.	
103. Kalani High School, Oahu	250,000
Plan, construct and/or renovate existing cafeteria for the purposes of utilizing said facility for a cafetorium; supplements prior appropriations.	
104. Kalihi Elementary School, Oahu	100,000
Plans and construction to install communication system—intercom in each classroom.	
105. Kalihi Elementary School, Oahu	50,000
Plans and construction to install metal railing extensions to both Buildings A and B, 3rd floor.	
106. Kalihi Elementary School, Oahu	11,000
Purchase sports equipment and improvements and expansion.	
107. Kalihi-Kai Elementary School, Oahu	142,000
Plans and construction for library improvements and expansion.	
108. Kalihi-Kai Elementary School, Oahu	20,000
Plans and construction for proper drainage in Buildings B, C, D, E, G, H.	
109. Kalihi-Uka Elementary School, Oahu	10,000
Plans and construction to renovate surplus classroom into art and kiln room.	
110. Kalihi-Waena Elementary School, Oahu	75,000
Plans and construction to install security screens on first floor of Buildings A, B, C, D, and Administration Building.	
111. Kalihi-Waena Elementary School, Oahu	80,000
Plans and construction to enclose six existing patios in Building A.	
112. Kapalama Elementary School, Oahu	50,000
Plans and construction to improve drainage system and landscape makai campus.	
113. Kaneohe Elementary School, Oahu	85,000
Planning and construction for renovation of classrooms for library and access road.	
114. Kaneohe Elementary School, Oahu	40,000
Planning and construction for retaining wall in vicinity of building B.	
115. Keolu Elementary School, Oahu	1,000
Plans and construction for drainage and ground improvements. Unexpended balances in Items G-47 and G-7 of Act 218, Session Laws of Hawaii 1974, may be used for this project.	
116. Kapunahala Elementary School, Oahu	51,500
Planning and construction for renovation and improvement to library.	
117. Kauluwela Elementary School, Oahu	20,000
Plans and construction for overheads on various walkways between buildings.	
118. Laie Elementary School, Laie, Oahu	20,000
Plans and construction of overhead shelters for walkways.	
119. Lanakila Elementary School, Oahu	10,000
Plans and construction to install security screens on windows of the Administration Building.	

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120.	Lanikai Elementary School, Oahu Plans and construction for improvement and extension of playcourt.	20,000
121.	Leeward District Schools, Oahu Plans and construction for - Campbell High School paved playcourts, ground and site improvements. Ilima Intermediate School improvements to playcourts, P.E. field, ground and site improvements. Iroquois Point Elementary School playcourts, ground and site improvements. Maili Elementary School security screen and lights. Makaha Elementary School security screens and lights. Nanaikapono Elementary School chainlink fence, sprinkler system and site improvements. Nanakuli High School security screens and lights. Waianae Elementary School eight classroom building and renovate other classrooms. Waianae High School six classrooms.	148,000
122.	Liholiho Elementary School, Oahu Plans and construction for repairs to existing facilities.	45,100
123.	Liholiho Elementary School, Oahu Planning and construction for 8 double classrooms in "J" building.	75,000
124.	Liholiho Elementary School, Oahu Planning and construction for art, music and science facilities.	100,000
125.	Liholiho Elementary School, Oahu Planning and construction for ground improvements and renovations of kitchen.	100,000
126.	Liliuokalani Elementary School, Oahu Plans and construction for repairs to existing facilities.	45,100
127.	Liliuokalani Elementary School, Oahu Planning and construction for covered walkway and fencing.	50,000
128.	Lincoln Elementary School, Oahu Construction of a six-foot high, 250 feet chain link fence to run between Lincoln School and Stevenson Intermediate improved athletic field with gates at the two existing stairways.	2,150
129.	Lincoln School, Oahu Plans and construction for six-foot high, 250 feet long chain-link fence installed between Lincoln Elementary and Stevenson Intermediate athletic facility with two gates at existing stairway.	2,150
130.	Lincoln School, Oahu Plans and construction for installation of six-foot high, 270 feet chain link fence between Lincoln School and Stevenson Intermediate Improved Athletic Field, including two gates on existing stairways.	1,000
131.	Maemae School, Oahu Plans and construction for toilets for rooms 42 and 43.	25,000
132.	Maemae School, Oahu Plans and construction to install fluorescent lighting, Buildings B and J.	35,000
133.	Maemae School, Oahu Plans and construction to improve drainage, mauka of cafetorium.	50,000

134. Maemae School, Oahu	15,000
Plans and construction to install walls in rooms 11 and 12 and rooms 39 and 40.	
135. Maemae School, Oahu	15,000
Plans and construction to convert Building J hallway to storage room.	
136. Maemae School, Oahu	10,000
Plans and construction to convert hallway to Administration Building to office.	
137. Maemae Elementary School, Oahu	20,000
Planning and construction for new facilities and for improvements and renovations to current structures to include conversion of building B hallway to storage room and converting existing stage in cafetorium to a teacher's lounge.	
138. Maemae School, Oahu	62,850
Plans and construction to improve drainage mauka of cafetorium; install walls in rooms 11-12 and rooms 39-40; convert building J hallway to storage room; convert hallway in administration building to office.	
139. Manoa Library, Oahu	200,000
Acquisition of lands adjacent to library for future expansion.	
140. Manoa Library, Oahu	200,000
Acquisition of 10,650 square feet of lands mauka and adjacent to Manoa Library for future expansion.	
141. Manoa School, Oahu	12,000
Plans and construction of twelve additional asphalt parking stalls across Room 13.	
142. McKinley High School, Oahu	300,000
Plans and construction of new facilities and/or renovation of existing facilities as per Complex Development Report; to include changes in all prior appropriations so as to conform to CDR whenever possible.	
143. Mililani Waena Elementary School, Oahu	80,000
Plans and construction for an operable wall to divide 3 Type IV Classrooms to Type II classrooms.	
144. Moanalua Elementary School, Oahu	5,000
Plans and construction for removal of bamboo bush on playground.	
145. Moanalua Elementary School, Oahu	75,000
Plans and construction to improve and landscape playground and sprinkler system.	
146. Moanalua Elementary School, Oahu	12,500
Plans and construction for grading of playfield and removal of drainage boxes in middle of field.	
147. Moanalua High School, Oahu	25,000
Plans to construct 4 Science Buildings.	
148. Moanalua High School, Oahu	50,000
Plans and construction to grade and remove dirt mound from front of school.	
149. Mokapu Elementary School, Oahu	55,000
Planning and construction of parking lot improvements and extension.	
150. Mokapu Elementary School, Oahu	85,000
Planning and construction for renovation and improvement to library.	
151. Mokapu Elementary School, Kailua, Oahu	25,000
Plans and construction of paved playcourts.	

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152. Mokulele Elementary School, Oahu	25,000
Plans and construction for renovation of former bank building to be used as campus facility.	
153. Nanakuli High School, Oahu	95,000
Plans and construction for gymnasium. To supplement prior appropriations.	
154. Nimitz Elementary School, Oahu	20,000
Plans and construction for painting of classroom and ground improvements.	
155. Niu Valley Intermediate School, Oahu	300,000
Plans and construction for renovation of library, band room and choral room.	
156. Noelani School, Oahu	180,000
Plans and construction for reroofing classroom building A (1962); building B (1964); and adjoining mall walkway.	
157. Noelani School, Oahu	30,000
Plans and construction to bring library building to standard. Supplemental appropriation.	
158. Nuuanu Elementary School, Oahu	200,000
Plan and construct pedestrian overpass to provide access to Queen Emma Park.	
159. Palolo Elementary School, Oahu	200,000
Plans and construction for library renovations.	
160. Palolo Elementary School, Oahu	30,000
Plans and construction for retaining wall.	
161. Palolo Elementary School, Oahu	50,000
Plans and construction for necessary security measures on Building D.	
162. Pauoa School, Oahu	50,000
Plans and construction for new basketball court.	
163. Pearl City Elementary School, Oahu	240,000
Plans and construction for sound proofing of classrooms including renovations to library and ground and site improvement.	
164. Pearl City High School, Oahu	1,400,000
Construction of gymnasium.	
165. Pearl Harbor Elementary School, Oahu	10,000
Plans to replace drainage system.	
166. Pearl Harbor Kai Elementary School, Oahu	15,000
Plans and construction for soft ball field; renovation of water fountain and campus lawn; and addition to shower facilities.	
167. Pohakea Elementary School, Oahu	80,000
Plans for multi-purpose dining facility.	
168. Pohakea Elementary School, Oahu	10,000
Planning and designing of multi-purpose building.	
169. Puohala Elementary School, Oahu	10,000
Plans and construction to install fencing along footpath leading to Wena Street.	
170. Puohala Elementary School, Oahu	85,000
Planning and construction for renovation and improvement to library.	
171. Radford High School, Oahu	20,000
Plans and construction for student parking.	
172. Red Hill Elementary School, Oahu	13,000
Plan and construct a ventilation system for cafetorium.	

173. Roosevelt High School, Oahu	60,000
Plans and construction to install heat or smoke sensor device in all rooms.	
174. Salt Lake Elementary School, Oahu	4,000
Plan and construct tile retaining wall for planting area.	
175. Solomon Elementary, Oahu	1,000
Plans and construction of teachers' workroom with toilets. Unencumbered balance in Item IV-F-9-4, Act 195, Session Laws of Hawaii 1975, to be used for this project in conjunction with new appropriation.	
176. Sunset Beach Elementary School, Sunset Beach, Oahu	3,000
Plans and construction for installation of two street lights in parking lot.	
177. Wahiawa Intermediate School, Oahu	180,000
Supplement prior appropriation. Plan and construct covered playcourt.	
178. Waialae Elementary School, Oahu	45,100
Plans and construction for repairs to existing facilities.	
179. Waialae Elementary School, Oahu	10,000
Plans and construction to install four metal gates to secure Building A.	
180. Waialua High School, Waialua, Oahu	1,000
Ultimate site plan report. Funds to be supplemented from Item IV-F-11-3 of Act 1975, Session Laws of Hawaii 1975.	
181. Waialua High School, Oahu	1,000
Supplement prior appropriation, planning and construction for an industrial arts/home economics building. Funds to be supplemented from Item IV-F-11-2 of Act 195, Session Laws of Hawaii 1975.	
182. Waialua High School, Waialua, Oahu	1,000
Supplement prior appropriation, planning and construction for an industrial arts/home economics building. Funds to be supplemented from Item IV-F-11-5 of Act 195, Session Laws of Hawaii 1975.	
183. Planning and construction of fire hydrants for Waianae Elementary, Waianae Intermediate, and Maili Elementary Schools, Oahu, to conform to code requirements. Ground and site improvements.	120,000
184. Waianae High School, Oahu	100,000
Planning, designing, and construction of lights for athletic field and ground site improvements.	
185. Waianae High School, Oahu	200,000
Plans and construction of light poles, broadcast booth, chainlink fencing, installation of public address system, and electric panel circuits and site improvements.	
186. Waiiau II Elementary School, Oahu	230,000
Plans and construction for an administration facility and a library.	
187. Waikiki Elementary School, Oahu	12,000
Plans and construction to install security screens for 34 windows on first floor of administration building.	
188. Waikiki Elementary School, Oahu	45,100
Plans and construction for repairs to existing facilities.	
189. Wailupe Valley Elementary School, Oahu	40,000
Plans and construction for renovations.	
190. Waimanalo Elementary and Intermediate School, Oahu	5,000
Plans and construction for renovation of Home Economics Classrooms. Unexpended balance in Item IV-B-6 of Act 218, Session Laws of Hawaii 1974 may be used for this project.	

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| 191. Waipahu High School, Oahu   | 50,000  |
| Plans and construction for facilities to implement Complex Development Report. Funds from prior appropriations may be used.  |         |
| 192. Waipahu Intermediate School, Oahu   | 100,000 |
| Plans and construction for facilities to implement Complex Development Report. Funds from prior appropriations may be used.  |         |
| 193. Washington Intermediate School, Oahu  | 350,000 |
| Planning, design, and construction for a complex development assessment report, a reconstruction, and/or renovation, and/or new facilities, as required. Unencumbered balances in Items 91-IVF-19-06, 91-IVF-19-07, 91-IVF-19-08, 91-IVF-12-09 and 91-IVF-12-10 of Act 195, Session Laws of Hawaii 1975; and Item 91E-IVF-210 of Act 226, Session Laws of Hawaii 1976, may be used for this appropriation. |         |
| 194. Wilson Elementary School, Oahu  | 10,000  |
| Plans and construction for repairs and maintenance.  |         |

### F. UNIVERSITY OF HAWAII

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|---|---------|
| 1. Hemenway Hall, Oahu  | 283,000 |
| Plans and construction for renovation and remodeling. Supplemental appropriation.                                     |         |
| 2. Live Coral Display, Oahu   | 350,000 |
| Plans and construction for a live coral display at the Waikiki Aquarium.  |         |
| 3. Lyon Aboretum, Oahu  | 75,000  |
| Plans and construction to widen and repave existing road.   |         |
| 4. Manoa Stream Park, Oahu  | 120,000 |
| Design and construction for Phase I of the Manoa Stream Park.   |         |
| 5. Waimanalo Experimental Farm, Oahu  | 62,000  |
| Plans and construction for improvements to fencing and miscellaneous utilities, including water lines for irrigation. |         |

### H. DEPARTMENT OF HEALTH

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|---|---------|
| 1. Grant-in-aid to Kuakini Medical Center, Oahu, for plans, construction and equipment of the proposed Progressive Health Care Building which will house a 150-bed care home for elderly people; a day care center for 100 elderly people and a 100-bed intermediate care facility. | 200,000 |
| 2. Grant-in-aid to St. Francis Hospital, Oahu, for the planning, construction and modernization of patient units and other related facilities.  | 200,000 |
| 3. Grant-in-aid for the planning, construction and equipment for the expansion of facilities at the Children's Hospital, Oahu.  | 200,000 |
| 4. Hawaii Home for Veterans, Oahu   | 25,000  |
| Plans for the construction of the Hawaii home for Veterans.   |         |
| 5. Kalihi-Palama Halfway Houses, Oahu   | 20,000  |
| Plans and construction for 2 Halfway Houses at Po'Ailani, Kalihi-Palama.  |         |
| 6. Kapiolani Hospital, Oahu   | 100,000 |
| Planning and construction for development of Kapiolani Children's Medical Center. Grant-in-aid.   |         |
| 7. Kauikeolani Children's Hospital, Oahu  | 300,000 |
| Planning and construction for development of Kauikeolani Children's Hospital new ancillary supporting building to be located at Kapiolani Children's Medical Center. Grant-in-aid.  |         |

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| 8. Pacific Institute of Rehabilitative Medicine, Oahu  | 250,000 |
| Land acquisition for lease to the Rehabilitation Hospital of the Pacific, Oahu, for the development of medical rehabilitation programs and facilities. To supplement prior appropriations. Grant-in-aid. |         |
| 9. Queen's Medical Center, Oahu  | 250,000 |
| Planning and construction for modernization of a five (5) bed surgical intensive care unit. Grant-in-aid.  |         |
| 10. Wahiawa General Hospital, Oahu   | 300,000 |
| Grant-In-Aid for construction of additional facilities to improve services for Central Oahu.   |         |

**I. DEPARTMENT OF HAWAIIAN HOME LANDS**

(To be expended by the Department of Hawaiian Home Lands)

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| 1. Iaukea and Kauhane Street Improvements, Oahu  | 20,000 |
| Planning and construction of sidewalks and curbing for Iaukea and Kauhane Streets.   |        |
| 2. Papakolea Homestead Road, Oahu  | 15,000 |
| Plans and construction for a roadway running along the Waikiki Boundary of the residential lots abutting Tantalus Drive with the Iaukea Street extension in Papakolea. Unexpended balances from Item IV, N-13, Act 195, Session Laws of Hawaii 1975, may be used for this project. |        |

**K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

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| 1. Hauiki Project, Oahu  | 10,000  |
| Plans and construction for exterior lighting, to light walkways and property boundaries.   |         |
| 2. Hauiki Project, Oahu  | 7,000   |
| Purchase community hall and playground equipment for hall and adjacent recreational areas.   |         |
| 3. Hawaii Youth Correctional Facility, Oahu  | 5,000   |
| Install escape detecting alarm system.   |         |
| 4. Kaahumanu Homes, Oahu   | 13,750  |
| Plans and construction to provide fencing and rain gutters.  |         |
| 5. Kalakaua Homes, Oahu  | 350,000 |
| Planning, design, and construction for public housing units; provided that planning is done in consultation with the Oahu Tenants Advisory Council and the Kalakaua Homes Tenants Association. |         |
| 6. Kalihi Valley Homes, Oahu   | 10,000  |
| Plans and construction to install partition/exterior doors.  |         |
| 7. Kamehameha Homes, Oahu  | 13,750  |
| Plans and construction to provide parking spaces and fencing.  |         |
| 8. Koolau Village Recreation Center, Oahu  | 20,000  |
| Supplementary funds to complete project. Item IV-F-3-17 of Act 195, Session Laws of Hawaii 1975, may be used for this project.   |         |
| 9. Leeward Oahu Senior Citizens Center, Oahu   | 450,000 |
| Land acquisition, plans and construction for a Leeward Oahu Senior citizens center.  |         |
| 10. Palolo Housing, Oahu   | 50,000  |
| Plans and construction to provide non-skid material on interior and exterior steps.  |         |

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| 11. Palolo Housing, Oahu   | 125,000 |
| Plans and construction to renovate heater enclosures and to paint State funded buildings to conform with Federally funded buildings. |         |
| 12. Puahala Homes, Oahu  | 40,000  |
| Re-design and construct doors and windows.   |         |
| 13. Puahala Homes, Oahu  | 135,000 |
| Plans and construction to upgrade old electrical system; install additional lights and electrical outlets.                           |         |

### M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

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|--|---------|
| 1. Castle Memorial Hospital, Oahu  | 20,000  |
| Grant-in-Aid for plans and construction of a Helipad for Medivac Services.   |         |
| 2. Hawaii State Senior Center, Oahu  | 5,000   |
| Plans and construction to fence, light, and landscape area.  |         |
| 3. Makua Alii, Oahu  | 50,000  |
| Planning and construction for renovation of the 20th floor roof. Grant-in-aid.   |         |
| 4. Mililani Community Library, Oahu  | 215,000 |
| Plans and construction for landscaping.  |         |
| 5. Moiliili Community Center, Oahu   | 50,000  |
| Planning and construction for landscaping.   |         |
| 6. Pauoa Stream Embankment, Oahu   | 50,000  |
| Construction of a cement embankment directly behind the Pauoa Elementary School property to abate erosion.   |         |
| 7. Salt Lake Boulevard, Oahu   | 1,000   |
| Plans and construction to improve Salt Lake Boulevard from Halawa Heights Road to Kalaloe Street. Unexpended balances in Item III-B-6, Section 91-F, Act 226, Session Laws of Hawaii 1976, shall be used for this project. |         |
| 8. Planning and construction of Helipads for Kahuku Hospital and Waianae Comprehensive Health Center.  | 10,000  |
| 9. Windward Art Center, Oahu   | 40,000  |
| Site selection, design, and planning of a center for performing and visual arts. (To supplement funds in Item VIA-M-3 of Act 226, Session Laws of Hawaii 1976)   |         |

### U. CITY AND COUNTY OF HONOLULU

(To be expended by the City and County of Honolulu)

#### Department of Parks and Recreation

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|--|--------|
| 1. Aiea Senior Citizens Center   | 10,000 |
| Plans for senior citizens and multi-purpose center adjacent to the existing Aiea Recreational Center.        |        |
| 2. Alewa Playground, Oahu  | 50,000 |
| Plans and construction to improve and light playcourts.  |        |
| 3. Alii Beach Park, Haleiwa, Oahu  | 15,000 |
| Grant-in-aid for skateboard rink. Funds to be matched by City and County of Honolulu.                        |        |
| 4. Booth Park, Oahu  | 7,850  |
| Analysis and planning for a storage facility mauka of existing pool.   |        |
| 5. Diamond Head Comfort Station and Site Improvements, Oahu  | 75,000 |
| Completion of construction of site improvements and landscaping for major sightseeing area at Kuilei Cliffs. |        |

6. Foster Village Tennis Courts, Oahu	50,000
Grant-in-aid for design and construction of tennis courts on land adjacent to the East Foster Village Community Center.	
7. Hauula Beach Park, Hauula, Oahu	50,000
To construct a comfort station on the Kahuku side of Hauula Beach Park, Oahu.	
8. Heeia Playground, Oahu	1,000
Plans and construction for lights on Heeia Playground and ballfield.	
9. Honokai Hale Park	75,000
Planning and construction of ball courts and comfort station. Funds to be matched by City and County of Honolulu.	
10. Kaalakei Park, Oahu	200,000
To develop Kaalakei Park. Funds to be matched by the City and County of Honolulu.	
11. Kahaluu District Park, Oahu	75,000
For acquisition and plans and construction for development of land for the regional park in conjunction with the Kahaluu Flood Control Project.	
12. Kakaako Waterfront Park, Oahu	250,000
Planning and construction of a waterfront park and recreational facilities.	
13. Kalihi-Uka Playground, Oahu	25,000
Plans and construction to improve and light playcourts.	
14. Kalihi Valley Field, Oahu	10,000
Plans and construction to construct chain link fence on far center field.	
15. Kalihi Valley Field, Oahu	20,500
Purchase portable folding bleachers around the boxing ring and one time clock for gym.	
16. Kamamalu Park, Oahu	75,000
Plans and construction of a skating/skateboarding rink.	
17. Kaneohe Community Service Center, Oahu	25,000
Supplementary funds for construction for Senior Citizens Center for all age groups, including equipment and landscaping. Item VIA-N-16 of Act 226, Session Laws of Hawaii 1976, may be used for this project.	
18. Kaneohe District Park, Oahu	50,000
Plans and construction for solar heating system.	
19. Kaneohe Senior Citizens Center, Kaneohe, Oahu	140,500
To provide grant-in-aid for plans and construction of center to include but not be limited to a kitchen, dining room, lounge and appropriate equipment. (Unexpended balances in Item 91E, IV-N-16 of Act 226, Session Laws of Hawaii 1976, and Item 72A, IV-J-36 of Act 218, Session Laws of Hawaii 1974, will be used for this project.)	
20. Kaneohe Youth Center, Kealahala Road, Oahu	7,500
Supplementary funds for equipment and miscellaneous repairs.	
21. Kanewai Playground, Oahu	50,000
Plans and construction to replace terrace with roofing between administration building and restrooms.	
22. Kanewai Playground, Oahu	50,000
Plans and construction to install automatic sprinkler system for the field.	
23. Kapaolono Park, Oahu	5,000
Grant-in-aid for plans and construction for improving existing facilities.	
24. Kapunahala Playground, Oahu	75,000
Plans and construction for field lights for baseball field.	

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25. Koko Head District Park Plans and construction for tennis courts.	100,000
26. Koko Head District Park Plans and construction for skating and skateboarding facility.	20,000
27. Kupehau Park (former Kalihi-Uka Park), Oahu Plans and construction for development of portions of TMK 1-4-06-51 and 1-4-17-2 into recreational park.	150,000
28. Mahinui Mini-Park, Kaneohe, Oahu Supplementary funds for land acquisition. (Unexpended balances in Item 91F III-N-16 of Act 226, Session Laws of Hawaii 1976, will be used for this project without the matching provisions.)	90,000
29. Maili Playground, Oahu Plans and construction of night lights.	105,000
30. Makaha Playground, Oahu Plans and construction for sprinkler system.	20,000
31. Makakilo, Maukalani Park, Oahu Planning and construction of ball courts; comfort station, and playing apparatus. Funds to be matched by City and County.	67,500
32. Makiki District Park, Oahu Plans and construction of site improvements including outdoor courts and landscaping and continuation of renovations to existing building.	60,000
33. Makiki District Park, Oahu Plans and construction of site improvements including outdoor courts and landscaping and continuation of renovations to existing buildings.	40,000
34. Manana Kai Neighborhood Park, Oahu Land acquisition, planning, and construction of a park, including ground and site improvements.	150,000
35. Manana Neighborhood Park, Oahu Planning and construction of a recreational building, court lights, and modifications to comfort station, including ground and site improvements.	230,000
36. Mauka Lani Park, Makakilo, Oahu Planning and construction of ball courts, comfort station, and playing apparatuses to be matched by City funds.	7,500
37. Maunawili Playground, Ulupii Street (Olomana sub-division), Oahu Construct Recreation/Multi-purpose room to connect with existing comfort facilities.	25,000
38. Mini-Park for Waikiki, Oahu Acquisition of land within Kaioo Drive Loop, along Hobron Lane, in Waikiki, for park use.	925,000
39. Multi-Story Parking Lot, Oahu Planning and design of a multi-story parking lot at the Kekaulike off-street parking lot.	50,000
40. Na Pueo Park (Alewa Heights), Oahu Additional construction and development of previously acquired site. Unexpended funds from Item N-13, Act 195, Session Laws of Hawaii 1975, can be used for this project.	375,000
41. Niu Valley Community Park, Oahu Plans and construction for tennis courts and comfort station.	125,000
42. Paki Park, Oahu Grant-in-aid for plans and construction for improving existing facilities.	5,000

43. Palolo Playground, Oahu	200,000
Plans and construction to supplement prior appropriation to reconstruct outdoor courts and to improve and construct field lights.	
44. Papakolea Recreational Center, Oahu	30,000
Plans and construction for roof over bleachers and swimming pool, installation of gutters to improve drainage, construction of steps from Kauhane Street to the Center and from Tantalus Drive to the Center, a suspension system for the basketball backboards, a movable fence for the Ewa side of the basketball court and a driveway. Unexpended funds in Item J-16, Act 218, Session Laws of Hawaii 1974, may be used for the project.	
45. Salt Lake Park, Oahu	100,000
Site acquisition.	
46. Waianae Regional Park, Oahu	50,000
Plans and construction for night lights and other improvements.	
47. Waikiki Natatorium	323,000
Plans and construction for demolition of the Waikiki Natatorium in conjunction with the restoration of the adjacent beach by the Corps of Engineers, including relocation of the arch.	
48. Wailupe Community Park	30,000
Field grading and access improvement from Wailupe Valley School.	
49. Waimanalo Athletic Complex, Oahu	85,000
Plans and construction for a new athletic complex, including ground improvements. Supplements prior appropriation. \$15,000 of the unencumbered balances totalling \$100,000 in Item IV-A-1 of Act 218, Session Laws of Hawaii 1974, and Item VI-N-5-2 of Act 195, Session Laws of Hawaii 1975, may be used for this project.	
50. Waimanalo Beach Park, Oahu	100,000
Plans and construction for a canoe house.	

#### Department of Public Works

51. Anounou Street, Oahu	50,000
Grant-in-aid for design and construction to improve Anounou Street between Aiea Heights Road and Kulawea Street.	
52. Halawa Stream Improvements, Oahu	100,000
Grant-in-aid for plans and construction to line the north bank of Halawa Stream below Salt Lake Boulevard.	
53. Hamakua Road, Kailua, Oahu	200,000
Supplementary funds for road planning and construction.	
54. Kahaluu Street, Resurfacing, Oahu	50,000
Plans and construction to complete resurfacing of Ahaolelo Road, Mapele Road, Uapuihala Place, Mapele Place, Waihee Place, Mapumapu Road, Mahakea Road and Pulama Place.	
55. Kalihi Street, Oahu	85,000
Plans and construction for shoulder and drainage improvements on Kalihi Street between Dillingham Boulevard and North King Street.	
56. Kapahulu Improvements	700,000
Plans and construction of sidewalks, gutters, utilities and other neighborhood modernization similar to that begun but not completed in the area.	
57. Kapalama Canal - Wall, Oahu	600,000
Plans and construction for improvements and beautification. Plans and expenditures are subject to prior approval by the Department of Budget and Finance to insure proper implementation.	

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| 58. Maunalua Bay Park, Oahu  | 10,000  |
| Plan and construct boat landing facilities.  |         |
| 59. Moiliili Triangle Streets and Roads, Oahu  | 75,000  |
| Planning, design, and construction for street, road, and traffic improvements. (To be matched by the City and County of Honolulu.)   |         |
| 60. Nuuanu Roadway Improvements, Oahu  | 89,000  |
| Plans and construction of improvements to facilitate traffic access to and circulation on Waikahalulu Lane, McGrew Land, Puuhue Place, Stillman Lane, Frog Lane, Ka Pua Lane, and Mutual Lane. To be matched by funds from the City and County of Honolulu.                                      |         |
| 61. Roadway Improvements to Mahinui Access Road, Kaneohe   | 35,000  |
| Plans and construction for widening of Mahinui Access Road to include AC berm and pavement and retaining wall.   |         |
| 62. Wailehua Road Drainage Project, Oahu   | 100,000 |
| Plans and construction for drainage project.   |         |
| 63. Waipahu Street-Kahualani Street Relief Drain Project, Oahu   | 50,000  |
| Cleaning and improvement of existing earth ditch system along Kupehe Lane, and plans and construction for a new drainage system consisting of inlets, catch basins and drain pipes, to continue along Waipahu Street and Mokuola Street. Funds to be matched by the City and County of Honolulu. |         |

### UC. CITY AND COUNTY OF HONOLULU

(To be expended by the Council of the City and County of Honolulu)

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| 1. Ewa Villages Housing Study, Oahu  | 50,000 |
| Grant-in-aid to the City and County of Honolulu to support the development of a plan and implementation of a program to maintain adequate housing for residents of Ewa Villages. |        |

### UW. CITY AND COUNTY OF HONOLULU

(To be expended by the Board of Water Supply)

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| 1. Ahiahi Street, Oahu  | 35,500  |
| Plans and construction to install 300 linear feet of 8-inch water main and appurtenances along Ahiahi Street from Houghtailing Street to the Ewa end of Ahiahi Street.  |         |
| 2. Eames Street Water Line, Wahiawa, Oahu   | 142,000 |
| Installation of 1,700 feet of 8-inch water main and appurtenances along Eames Street.   |         |
| 3. Gulick Extension, Monte Street, Gulick Avenue, Maalaea Road, Oahu  | 16,000  |
| Plans and construction to install four fire hydrants on Gulick Extension, Monte Street, Gulick Avenue, and Maalaea Road.  |         |
| 4. Hoapono Place, Oahu  | 15,500  |
| Plans and construction for installation of fire hydrants in Hoapono Place, Ahehe Street and Uwau Drive, Aiea.   |         |
| 5. Jade Street Waterline Improvement, Oahu  | 80,000  |
| Planning, engineering and construction for 8-inch waterline. Supplement to previous appropriations.   |         |
| 6. Kahala, Oahu   | 15,500  |
| Installation of four additional fire hydrants and appurtenances along the following streets in the Kahala area: along Black Point Road between Kahala Avenue and Puu Elele Place, two fire hydrants; along Alii Koa Street, one fire hydrant; and along Kaimuki Avenue between 20th and 22nd Avenues, one fire hydrant. |         |

7. Kahuku Water Development, Kahuku, Oahu	100,000
Water source investigation, planning, engineering, land acquisition and construction of water delivery system.	
8. Kaimuki, Oahu	60,750
Land acquisition, plans, construction and inspection of installation of water main and appurtenances along Pahoa Avenue. (To be matched by County funds.)	
9. Kaimuki, Oahu	60,000
Plans, construction and inspection of installation of water main and appurtenances along Noeau Street and 15th Avenue. (To be matched by County funds.)	
10. Kaimuki, Oahu	86,500
Plans, construction and inspection of installation of water main and appurtenances along Claudine Street and 13th Avenue. (To be matched by County funds.)	
11. Kaimuki, Oahu	66,000
Plans, construction and inspection of installation of 36 fire hydrants and appurtenances in the Kaimuki Area. (To be matched by County funds.)	
12. Kauila Street Water Main, Oahu	78,500
Plans, land acquisition, and construction for 8-inch water main and appurtenances along Kauila Street from Nuuanu Avenue to Pali Highway.	
13. Lalawai Drive, Oahu	15,500
Plans and construction for installation of fire hydrants and appurtenances along Lalawai Drive, Halawa Heights.	
14. Lualualei-Nanakuli-Waianae, Oahu	24,000
Plans and construction for installation of seven fire hydrants and appurtenances along the following streets in Lualualei, Nanakuli, and Waianae: Kuwale Road at Kuwale Place (1); Halona Road between hydrants L-1982 and L-2105 (2); Lualualei Homestead Road between Halona Road and Maililili Channel (1); Farrington Highway at Aala Walk (1); Hakimo Road at Akowai Road (1); and Jade Street at, and above, Lahaina Street (1).	
15. Manoa-Makiki, Oahu	30,000
Plans and construction for the installation of eight (8) fire hydrants and appurtenances along the following streets in Manoa-Makiki area: Keeaumoku Street near Wilder Avenue (2); along Halehula Way, Damon Street, Hyde Street, Papala Street, Pamoia Road and McKinley Street (1 on each street).	
16. Plans and construction for installation of 8-inch water mains and appurtenances on Kaau Street from 7th Avenue to 10th Avenue, Oahu.	50,000
17. Punchbowl-Kakaako, Oahu	17,500
Plans and installation of fire hydrants and appurtenances along Kamamalu Street between Concordia and Huali Streets (2 hydrants); Mutual Lane (1 hydrant); Ala Moana Boulevard between Kamakee and Queen Streets (1 hydrant); and also plans and installation of gate valves along Coral Street between hydrants #99 and #5480 and Pali Highway between hydrants #243 and #4515.	
18. Rose Street, Oahu	136,000
Plans and construction for installation of eight-inch water main and appurtenances along Rose Street from Arsenal Road to Kam IV Road, Kalihi.	
19. 16th Avenue Water Main, Kaimuki, Oahu	60,000
Installation of 1,150 linear feet of 8-inch water main and appurtenances along 16th Avenue from Claudine Street to Keanu Street.	

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20. 12th District Water Mains, Oahu Installation of water mains in the 12th District.	75,000
21. Waikiki Water Line, Oahu Installation of 1,550 linear feet of 16" water main and appurtenances along Kalakaua Avenue from Kapahulu Avenue to Uluniu Avenue.	293,000
22. Waipio-Waikele Sewerage System, Oahu Planning, design and construction of a sewerage system in the Waipio-Waikele area.	200,000
23. Water Main, Keanu Street, Kaimuki, Oahu Plans and construction for installation of 1,700 linear feet of 8-inch water main and appurtenances along Keanu Street from 13th Avenue to 16th Avenue.	37,900
24. Water System, Oahu Plans and construction for additional fire hydrants and gate valves in Palolo, Kaimuki and Mauanalani Heights.	13,000
25. Water System, Oahu Plans and construction for the installation of 6-inch water main and appurtenances along Kuahea Street.	77,000
26. Water System, Oahu Plans and construction for installation of 1,000 feet of 8-inch water main and appurtenances along Koali Road, mauka of Waialae Avenue.	96,000
27. Water System, Oahu Plans and construction for installation of 1,100 linear feet of 12-inch water main and appurtenances along 10th Avenue from Pakui Street to Paalea Street.	65,000

### IV. COUNTY OF KAUAI

#### C. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

1. Hanalei River Clearing and snagging river banks above steel bridge.	100,000
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#### D. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

1. Hanamaulu-Ahukini Cutoff Road, Kauai Land acquisition, plans and construction of highway to relieve congestion through Lihue Town and Kapaia area. Unexpended balances from Act 187, SLH 1970, Items C-98 and C-99; Act 68, SLH 1971, Items H-93, H-96 and H-97; Act 195, SLH 1975, Items C-71 and C-74; Act 226, SLH 1976, Items C-41, C-42 and C-45 may be used for this project provided they are not required for these improvements from Hanalei to Wainiha as determined after public hearings.	1,000
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#### E. DEPARTMENT OF EDUCATION

1. Eleele School Plans and construction of four classroom buildings including sidewalk, curbing and pavement along Ulaula Road from school for 800 feet. \$368,000 of unencumbered funds from Act 218, SLH 1974, Item 72G-41 and Item 72G-90; Act 195, SLH 1975, Item 88G-11 may be used for this project.	1,000
2. Hanalei School Plans and construction of community/school library building. \$150,000 of unencumbered funds from Act 195, SLH 1975, Item 88G-11 may be used for this project.	1,000

3. Hanalei School 1,000  
Renovate and improve facilities at present site to meet educational standards. \$150,000 of unencumbered funds from Act 195, SLH 1975, Item 88G-11 may be used for this project.
4. Kalaheo School 1,000  
Plans and construction of ground improvement including drainage, chain link fence and covered play court. \$125,000 of unencumbered funds from Act 195, SLH 1975, Item 88G-11 may be used for this project.
5. Kapaa Elementary School 1,000  
Plans and construction of eight classroom building for regular and special education to replace old wooden structures including sidewalks, curbing and pavement along Kawaihoo Road for 500 feet. \$514,250 of unencumbered funds from Act 195, SLH 1975, Item 88G-11 may be used for this project.
6. Kauai High and Intermediate School 1,000  
Plans and construction of curbing and parking facilities, administration and student parking. \$125,000 of unencumbered funds from Act 195, SLH 1975, Item 88G-11, Item 88G-12 and Item 88G-60 may be used for this project.
7. Kekaha School 1,000  
Plans and construction for ground improvement and landscaping of primary play area including sidewalks and curbing along Kekaha Road fronting school to and on Akiaola Road to Iwipolena Road. \$113,000 of unencumbered funds from Act 226, SLH 1976, Item 88A-G11 may be used for this project.
8. Kilauea School 1,000  
Renovate and improve facilities at present site to meet educational standards. \$194,850 unencumbered funds from Act 195, SLH 1975, Item 88G-60; Act 226, SLH 1975, Item 88A-G11 may be used for this project.
9. Koloa School 1,000  
Renovate building C to meet educational standards. \$125,000 of unencumbered funds from Act 226, SLH 1976, Item 88A-G11 may be used for this project.
10. Koloa School 1,000  
Up-date electrical system including ETV, Master bell system, fire alarm and public address systems. \$125,000 of unencumbered funds from Act 226, SLH 1976, Item 88A-G11 may be used for this project.
11. Waimea High School 1,000  
Plans and construction of parking facilities for faculty, staff and students and other facility improvements including sidewalks, curbing and pavement of Huakai Street from main highway to school along new Waimea Park. \$250,000 of unencumbered funds from Act 226, SLH 1976, Item 88A-G11, Item 88A-G58 may be used for this project.
12. Wilcox School Safety Facilities 1,000  
Construction of ground and facility improvements including bus loading zone with chain link fence, sidewalks, curbing and pavement along Hardy Street from Convention Hall to school. \$152,000 of unencumbered funds from Act 226, SLH 1976, Item 88A-G58 may be used for this project.
13. Wilcox School Special Education Facilities 1,000  
Plans and construction to renovate existing facilities to accommodate severely handicapped students. \$165,700 of unencumbered funds from Act 226, SLH 1976, Item 88A-G58 may be used for this project.

**H. DEPARTMENT OF HEALTH**

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|---|---------|
| 1. Kauai Veterans Memorial Hospital, Kauai  | 1,000   |
| Phase II. Plans and construction of new wing for thirty-two new acute care beds including furnishings and equipment. Unexpended balances from Act 218, SLH 1974, Item 3E-4; Act 195, SLH 1975, Item E-7; Act 195, SLH 1975, Item 5H-4 may be used for this project. |         |
| 2. Wilcox Memorial Hospital   | 400,000 |
| Plans and construction to renovate and expand for a dietary/nutrition facility including equipment. (To be expended by the Department of Health)  |         |

**X. COUNTY OF KAUAI**

(To be expended by the County of Kauai)

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|---|---------|
| 1. Economic Development Plan, Kauai   | 70,000  |
| To provide funds to the Office of Economic Development to prepare an economic development plan.   |         |
| 2. Hanapepe Town Drain, Kauai   | 59,000  |
| To supplement prior appropriations Act 195, SLH 1975, Item 5N-18; Act 197, SLH 1971, Item K-9.  |         |
| 3. Kapaa Neighborhood Center, Kauai   | 100,000 |
| Plans and construction to roof open courtyard and purchase furniture and equipment.   |         |
| 4. Kauai Drainage Master Plan   | 80,000  |
| To supplement prior appropriation from Act 195, SLH 1975, Item 5N-15.   |         |
| 5. Kekaha Beach Park, Tennis Courts, Kauai  | 25,000  |
| Plans and construction of two tennis courts, lights, appurtenances, fencing and parking. Unexpended balances in Items VN2 of Act 226, SLH 1976, may be used for this project. |         |
| 6. Oloheua Road, Kauai  | 200,000 |
| To supplement prior appropriation Act 195, SLH 1975, Item 5N-7, Act 155, SLH 1969, Item N-63.   |         |
| 7. Papalina Road Drain, Kalaheo, Kauai  | 35,000  |
| Plans for drainage facilities along Papalina Road.  |         |
| 8. Regional Senior Center, Kauai  | 50,000  |
| Plans, construction, and furnishings for a regional Senior Center in Lihue.   |         |
| 9. Waimea Police/Fire/Sewer pump station, Kauai   | 191,000 |
| Plans and construction for facilities and purchase of emergency generator.  |         |
| 10. Waimea Tennis Court, Kauai  | 50,000  |
| Plans and construction to repair and expand existing tennis courts and fencing. Unexpended balance in Item III G-4 of Act 218, SLH 1974 may be used for this project.         |         |
| 11. Waimea Visitor Information Center/Museum  | 25,000  |
| Land acquisition, plan and construction for information center/museum including furnishings and equipment.  |         |
| 12. Wailua Houselot Drainage Facilities   | 185,000 |
| To supplement prior appropriations from Act 195, SLH 1975, Item 5N-16; Act 155, SLH 1969, Item N-66.  |         |
| 13. Wailua Houselots Park, Kauai  | 185,000 |
| Construction of athletic field, courts and fencing.   |         |
| 14. Wailua Sewer System, Kauai  | 80,000  |
| Plans and construction of sprinkler system to dispose effluent.   |         |

**XW. COUNTY OF KAUAI**

(To be expended by the County of Kauai Department of Water)

- |  |         |
|--|---------|
| 1. Waimea Water System   | 400,000 |
| Plans for development of water source pumps, controls, connecting main and related appurtenances and storage tank. |         |

**SECTION 3.** Act 226, Session Laws of Hawaii 1976, Item IV-F-179 of Section 91E is amended to read as follows:

- |   |          |
|---|----------|
| "179. Salt Lake Elementary School, Oahu       | \$25,000 |
| Planning and construction of operable walls." |          |

**SECTION 4.** Act 195, Session Laws of Hawaii 1975, Item IV-F-19-4 of Section 91 is amended to read as follows:

- |   |           |
|---|-----------|
| "4. Lunalilo School, Oahu   | \$100,000 |
| Plans and construction for renovation of existing classrooms to science, music, and art classrooms, including site improvements." |           |

**SECTION 5.** The appropriations and authorization in this Act include land purchase, plans, site preparation, improvements to land, construction and necessary equipment.

**SECTION 6.** The designated expending agency for capital investments authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is more advantageous to do so.

**SECTION 7.** In releasing funds for projects, the Governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

**SECTION 8.** Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital investment project described in this Act, the Governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for a project is insufficient.

**SECTION 9.** The negotiation for the purchase of land by the state agencies shall be subject to the approval of the Governor. Private lands may be acquired for the purpose of exchange for federal lands when the Governor determines that such acquisition and exchange are necessary for the completion of any herein authorized projects.

**SECTION 10.** In case the amount specified for any capital improvement project shall not be wholly required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be

expended with the approval of the Governor for any other capital improvement project authorized by the Legislature, in this Act or in a prior year.

SECTION 11. Where the Governor or any agency of any government unit is able to secure federal funds or other property made available under any Act of Congress, or any funds or other property from private organizations or individuals, to be expended in connection with any project authorized by this Act, or otherwise, the Governor or agency with the Governor's approval shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organization or individuals. While most federal-aid allocations are known and local matching funds are provided in this Act, there may be projects for which federal-local cost sharing is not yet determined. In such cases, the availability of federal funds shall be construed as a reduction of State costs whenever possible.

SECTION 12. Where appropriations or authorizations for Department of Education or University of Hawaii projects specify the number of units, classrooms, partitions, etc., and the amount appropriated or authorized is insufficient to plan for and construct the specified number, the agency may plan for and construct less than the number specified.

SECTION 13. For any project jointly funded by state and county monies, state funds shall be used only when the county provides at least its pro rata share as indicated in the project authorization.

SECTION 14. In the event the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

SECTION 15. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act which are unencumbered as of June 30, 1981 shall lapse as of that date; provided that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement.

SECTION 16. Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the Legislature which affects the appropriations made by this Act, the Governor, or the Director of Finance, if so delegated by the Governor, with the concurrence of the President of the Senate and the Speaker of the House of Representatives, shall transfer the necessary funds to the proper expending agency.

SECTION 17. If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds

made in the same or any other act of the Legislature; provided that a report of such allocations for the period ending December 31, of each year shall be made to the Legislature by February 1, of the following calendar year.

SECTION 18. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the Legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 19. Where county capital improvement projects are partially or totally funded by state grants-in-aid as authorized in this Act or any other act of the Legislature, this fact shall be appropriately acknowledged during construction and upon completion of these projects.

SECTION 20. Based on the requests of State officials, and in reliance thereon, the lessees/developers at Matson Point, Heeia, Oahu, have deferred the development of the property and the demolition of the improvements to permit the use thereof by the State, for its benefit, in the establishment of a State educational/cultural center. The Department of Land and Natural Resources, with the approval of the Attorney General's Department, is therefore authorized to compensate the lessees/developers for said improvements which will be used and retained by the State.

SECTION 21. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the Legislature at its next session.

SECTION 22. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 23. This Act shall take effect on July 1, 1977.

APPROVED June 23, 1977, with objections to the following items as indicated in the body of the Act: 1. Item III. E. 52; 2. Item III. E. 94.

## ACT 10

H.B. NO. 1

A Bill for an Act Relating to the State Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the General Appropriations Act of 1977.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as

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\*Edited accordingly.

used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.

(b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the State government (other than the Legislature and the Judiciary), the political subdivision of the State, or any quasi-public institution supported in whole or in part by State funds, which is authorized to expend specified appropriations made by this Act. Abbreviations, where used to denote the expending agency, shall mean the following:

AGR Department of Agriculture  
AGS Department of Accounting and General Services  
ATG Department of Attorney General  
BUF Department of Budget and Finance  
DEF Department of Defense  
EDN Department of Education  
GOV Office of the Governor  
HHL Department of Hawaiian Home Lands  
HTH Department of Health  
LBR Department of Labor & Industrial Relations  
LNR Department of Land & Natural Resources  
LTG Office of the Lieutenant Governor  
PED Department of Planning & Economic Development  
PER Department of Personnel Services  
REG Department of Regulatory Agencies  
SOC Department of Social Services & Housing  
TRN Department of Transportation  
TAX Department of Taxation  
UOH University of Hawaii  
COH County of Hawaii  
CCH City and County of Honolulu  
COM County of Maui  
COK County of Kauai

(c) "Source of funding" means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meaning:

A general fund  
B special funds  
C general obligation bond fund  
D general obligation bond fund with debt service cost to be paid from special funds  
E revenue bond funds  
J federal aid interstate funds  
K federal aid primary funds

- L federal aid secondary funds
- M federal aid urban funds
- N other federal funds
- P state and local fiscal assistance (federal revenue sharing) funds
- R private contributions
- S county funds
- T trust funds
- U inter-department transfers
- W revolving funds
- X other funds

(d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.

(e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

## **PART II. PROGRAM APPROPRIATIONS**

**SECTION 3. APPROPRIATIONS.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the sources of funding specified to the expending agencies designated for the fiscal biennium beginning July 1, 1977 and ending June 30, 1979. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each year, except as provided elsewhere in this Act.

Item No.	Program	Program ID		APPROPRIATIONS							
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E	
A. ECONOMIC DEVELOPMENT											
1	COMMERCE AND INDUSTRY	PED	102								
	Research and Development			PED	348,876A		299,020A		647,896A		
					20.00*		20.00*				
	Operating			PED	1,134,562A		1,176,577A		2,311,139A		
				PED	84,800N		60,000N		144,800N		
				PED	705,000W		822,750W		1,527,750W		
2	TRANSPORTATION, COMMUNICATIONS AND UTILI	BUF	901								
	Operating			BUF	17.00*		17.00*				
					436,344A		491,842A		928,186A		
	TRADE AND FINANCE										
3	Economic Assistance for Trade & Finance	PED	105								
	Operating			PED	6.00*		6.00*				
	Investment: Capital			PED	153,837A		158,665A		312,502A		
				PED	2,000C		C		2,000C		
4	SCS Development & Marketing for Trade	PED	107								
	Operating			PED	24.00*		24.00*				
					587,963B		666,817B		1,254,780B		
5	TOURISM	PED	113								
	Operating			PED	3.00*		3.00*				
				PED	2,193,904A		2,293,700A		4,487,604A		
				PED	700,000R		750,000R		1,450,000R		
				PED	85,000X		105,000X		190,000X		
AGRICULTURE											
	Economic Assistance for Agriculture										
	Loans for Agriculture										
6	Department of Agriculture—Loans	AGR	101								

	Operating		AGR	10.00*	10.00*	
			AGR	285,927B	314,248B	600,175B
7	Department of Hawaiian Home Lands—LoansHHL	101		2,565,000W	3,000,000W	5,565,000W
	Operating		HHL	4.00*	4.00*	
8	Price and Production Controls for Agr	AGR 103		70,381B	72,474B	142,855B
	Operating		AGR	8.00*	8.00*	
	Productvty Imprvmnt & Mgt Asstnce for Agr			149,455A	150,693A	300,148A
	Production & Mngmt Methods Imprvmnt for					
9	Farms & Ranches—Prodcn & Mgt Imprvmnt HHL	111				
	Operating		HHL	20.00*	20.00*	
	Investment: Capital		HHL	334,109B	344,072B	678,181B
10	Commercial Fishery	LNR 153		3,700,000C	2,860,000C	6,560,000C
	Operating		LNR	13.00*	13.00*	
			LNR	272,840A	182,912A	455,752A
			LNR	20,000B	20,000B	40,000B
			LNR	100,000N	100,000N	200,000N
11	Plant Pest and Disease Control					
	Plant Quarantine	AGR 121				
	Operating		AGR	42.25*	40.25*	
			AGR	669,246A	660,059A	1,329,305A
	Investment: Capital		AGS	335,582U	375,500U	711,082U
12	Plant Pest Control	AGR 122		113,000C	82,000C	195,000C
	Operating		AGR	25.75*	25.75*	
			AGR	596,486A	577,451A	1,173,937A
				6,000N	6,000N	12,000N
13	Animal Pest and Disease Control					
	Animal Quarantine	AGR 131				
	Operating		AGR	35.00*	35.00*	
				673,701A	688,140A	1,361,841A

Item No.	Program	Program ID		APPROPRIATIONS						
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
14	Animal Disease Control	AGR	132							
	Operating			AGR	22.00*		22.00*			
				AGR	518,743A		512,395A		1,031,138A	
				AGR	19,000T		20,000T		39,000T	
	Investment: Capital			AGS	2,646,000C		C		2,646,000C	
	Product Development and Marketing for AG									
15	Forestry—Products Development	LNR	172							
	Operating			LNR	31.00*		31.00*			
				LNR	602,816A		621,331A		1,224,147A	
				LNR	66,000N		66,000N		132,000N	
16	Distribution Systems Improvement for Agr	AGR	151							
	Operating			AGR	35.00*		35.00*			
				AGR	702,220A		640,003A		1,342,223A	
				AGR	109,567B		115,922B		225,489B	
				AGR	14,800N		14,800N		29,600N	
				AGR	3,900X		3,900X		7,800X	
	General Support for Agr									
17	Data Collection for Agr	AGR	189							
	Operating			AGR	12.00*		12.00*			
				AGR	219,355A		223,803A		443,158A	
18	General Administration for Agr	AGR	192							
	Operating			AGR	31.00*		31.00*			
	Investment: Capital			AGS	560,393A		561,680A		1,122,073A	
				AGS	156,000C		373,000C		529,000C	
19	WATER DEVELOPMENT & IRRIGATION SERVICES	LNR	141							
	Operating			LNR	18.00*		18.00*			
				LNR	738,267A		542,208A		1,280,475A	
				LNR	105,800B		104,000B		209,800B	
	Investment: Capital			LNR	5,660,000C		4,570,000C		10,230,000C	

**ECON PLANNING & COORD FOR ECON DEVELOPME**

20	Econ Planning & Research for Econ Develo Research and Development	PED	130	PED	25,000A 13.00*	25,000A 13.00*	50,000A
	Operating			PED	297,933A	307,598A	605,531A
21	Office of the Gov—Gnrl Sppt for Econ D	GOV	109		3.00*	3.00*	
	Operating			GOV	573,653A	578,550A	1,152,203A
22	PED—General Support for Econ Developme	PED	142		21.00*	21.00*	
	Operating			PED PED	558,144A 33,096N	575,397A 33,912N	1,133,541A 67,008N

**B. EMPLOYMENT**

**FULL OPPORTUNITY TO WORK**

1	Placement Services	LBR	111		3.00*	3.00*	
	Operating			LBR	49,117A 202.00*	50,815A 202.00*	99,932A
				LBR	5,831,517N	6,052,307N	11,883,824N
2	Apprenticeship & Other Training Programs	LBR	123		7.00*	7.00*	
	Operating			LBR	109,901A	111,500A	221,401A
3	OCCUPATIONAL SAFETY & HEALTH	LBR	143		46.00*	46.00*	
	Operating			LBR	886,328A 27.00*	908,028A 27.00*	1,794,356A
				LBR	615,826N	624,900N	1,240,726N

**FAIR AND JUST EMPLOYMENT PRACTICES**

4	Wage Standards & Fair Employment Practic	LBR	152		26.00*	26.00*	
	Operating			LBR	451,075A	459,593A	910,668A

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS			Total Biennium 1977-1979
		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979	C O D E
5	Labor-Management Relations Public Employment	LBR	161					
	Operating		LBR		3.00*		3.00*	
					363,266A		367,302A	
6	Private Employment	LBR	162					730,568A
	Operating		LBR		1.50*		1.50*	
					42,677A		41,677A	
	ASSISTANCE IN WORK RELATED DIFFICULTIES							84,354A
7	Unemployment Compensation	LBR	171					
	Operating		LBR		81,400,000B		74,500,000B	155,900,000B
			LBR		283.00*		283.00*	
					5,186,551N		5,366,868N	10,553,419N
8	Disability Compensation	LBR	183					
	Operating		LBR		76.00*		76.00*	
			LBR		1,193,815A		1,255,245A	2,449,060A
			LBR		1,912,000B		2,012,000B	3,924,000B
9	Vocational Rehabilitation	SOC	802					
	Operating		SOC		24.40*		35.40*	
			SOC		914,408A		1,144,795A	2,059,203A
			SOC		77,000B		77,000B	154,000B
			SOC		90.60*		90.60*	
					2,637,576N		2,766,155N	5,403,731N
	OVERALL PROGRAM SUPPORT							
10	DLIR—Data Gathering, Research and Analy	LBR	901					
	Operating		LBR		8.40*		8.40*	
			LBR		132,277A		136,205A	268,482A
			LBR		30.60*		30.60*	
					722,125N		748,431N	1,470,556N

11	Policy Development and Coordination	GOV	803		11.00*	11.00*	
	Operating			GOV	284,672A	292,576A	577,248A
				GOV	50,000N	50,000N	100,000N
12	General Administration	LBR	902		20.70*	20.70*	
	Operating			LBR	365,083A	369,064A	734,147A
					52.80*	52.80*	
				LBR	5,417,673N	5,709,063N	11,126,736N
13	Labor & Industrial Relations Appeals Boa	LBR	812		8.00*	8.00*	
	Operating			LBR	236,947A	238,529A	475,476A

### C. TRANSPORTATION FACILITIES

#### AIR TRANSPORTATION FACILITIES & SVCS

1	HIA Facilities & Svcs	TRN	102		424.00*	426.00*	
	Operating			TRN	12,380,889B	12,437,637B	24,818,526B
	Investment: Capital			TRN	9,154,000B	3,290,000B	12,444,000B
				TRN	10,701,000E	E	10,701,000E
				TRN	4,628,000N	3,554,000N	8,182,000N
2	General Lyman Field Facilities and Svcs	TRN	111		77.00*	77.00*	
	Operating			TRN	2,496,874B	2,711,725B	5,208,599B
	Investment: Capital			TRN	75,000D	D	75,000D
3	Ke-Ahole Airport Facilities and Services	TRN	114		48.00*	49.00*	
	Operating			TRN	1,164,326B	1,210,461B	2,374,787B
	Investment: Capital			TRN	484,000D	D	484,000D
				TRN	490,000N	N	490,000N

Item No.	Program	Program ID		APPROPRIATIONS				
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E FY 1978-1979	Total Biennium 1977-1979	C O D E
4	Waimea-Kohala Airport Facilities and Svc	TRN	116					
	Operating			TRN	4.00* 90,069B	4.00* 122,625B	212,694B	
5	Upolu Airport Facilities and Services	TRN	118					
	Operating			TRN	2,000B	2,250B	4,250B	
6	Kahului Airport Facilities and Services	TRN	131					
	Operating			TRN	69.00* 1,747,934B	69.00* 1,530,161B	3,278,095B	
	Investment: Capital			TRN	2,500,000E	E	2,500,000E	
7	Hana Airport Facilities and Services	TRN	133					
	Operating			TRN	1.00* 36,238B	1.00* 30,137B	66,375B	
8	Molokai Airport Facilities and Services	TRN	141					
	Operating			TRN	8.00* 378,470B	8.00* 365,803B	744,273B	
9	Lanai Airport Facilities and Services	TRN	151					
	Operating			TRN	4.00* 115,058B	4.00* 108,596B	223,654B	
10	Lihue Airport Facilities and Services	TRN	161					
	Operating			TRN	55.00* 1,420,125B	57.00* 1,514,956B	2,935,081B	
	Investment: Capital			TRN	B	4,809,000B	4,809,000B	
				TRN	E	3,051,000E	3,051,000E	
11	Dillingham Field Facilities and Services	TRN	172					
	Operating			TRN	1.00* 48,012B	1.00* 50,947B	98,959B	
12	Ala Wai Heliport Facilities and Services	TRN	173					
	Operating			TRN	500B	500B	1,000B	

13	Kalaupapa Airport Facilities and Service	TRN	181		1.00*	1.00*	
	Operating			TRN	47,978B	18,048B	66,026B
	Investment: Capital			TRN	30,000D	D	30,000D
				TRN	80,000N	N	80,000N
14	Port Allen Airport Facilities and Service	TRN	191				
	Operating			TRN	20,845B	10,900B	31,745B
15	Air Transportation Facilities and Svcs Sup	TRN	195				
	Operating			TRN	51.00*	51.00*	
					32,329,446B	37,845,743B	70,175,189B
WATER TRANSPORTATION FACILITIES AND SERV							
16	Honolulu Harbor Facilities and Services	TRN	301				
	Operating			TRN	138.00*	139.00*	
	Investment: Capital			TRN	4,123,746B	4,120,979B	8,244,725B
				TRN	355,000B	885,000B	1,240,000B
				TRN	10,100,000D	D	10,100,000D
17	Hilo Harbor Facilities and Services	TRN	311				
	Operating			TRN	12.00*	12.00*	
	Investment: Capital			TRN	422,348B	419,379B	841,727B
				TRN	75,000B	B	75,000B
18	Kawaihae Harbor Facilities and Services	TRN	313				
	Operating			TRN	5.00*	5.00*	
	Investment: Capital			TRN	138,639B	128,239B	266,878B
				TRN	B	150,000B	150,000B
19	Kahului Harbor Facilities and Services	TRN	331				
	Operating			TRN	14.00*	14.00*	
	Investment: Capital			TRN	517,974B	491,366B	1,009,340B
				TRN	200,000B	B	200,000B
				TRN	1,464,000D	D	1,464,000D
20	Kaunakakai Harbor Facilities and Service	TRN	341				
	Operating			TRN	1.00*	1.00*	
					47,503B	36,516B	84,019B
21	Nawiliwili Harbor Facilities and Service	TRN	361				
	Operating			TRN	11.00*	11.00*	
					316,504B	313,257B	629,761B

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS			Total Biennium 1977-1979
		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979	C O D E
22	Investment: Capital Port Allen Harbor Facilities and Service	TRN	363	TRN	110,000B		75,000B	185,000B
	Operating			TRN	1.00*		1.00*	
23	Kewalo Basin Facilities and Services	TRN	371	TRN	55,763B		43,973B	99,736B
	Operating			TRN	1.00*		2.00*	
24	Water Transportation Fac & Svcs Support	TRN	395	TRN	212,506B		231,056B	443,562B
	Operating			TRN	41.00*		41.00*	
	Investment: Capital			TRN	7,104,531B		8,142,747B	15,247,278B
				TRN	25,000B		25,000B	50,000B
LAND TRANSPORTATION FACILITIES AND SERVI								
25	Oahu Highways and Services	TRN	501		204.00*		204.00*	
	Operating			TRN	6,639,272B		7,087,183B	13,726,455B
	Investment: Capital			TRN	5,973,000D		4,534,000D	10,507,000D
				TRN	44,592,000J		34,514,000J	79,106,000J
				TRN	400,000N		400,000N	800,000N
26	Hawaii Highways and Services	TRN	511		99.00*		99.00*	
	Operating			TRN	2,544,751B		2,844,112B	5,388,863B
	Investment: Capital			TRN	1,206,000D		1,009,000D	2,215,000D
				TRN	L		227,000L	227,000L
27	Maui Highways and Services	TRN	531		50.00*		50.00*	
	Operating			TRN	1,405,547B		1,469,935B	2,875,482B
	Investment: Capital			TRN	2,144,000D		1,088,000D	3,232,000D
				TRN	2,325,000K		K	2,325,000K

28	Molokai Highways and Services	TRN	541		11.00*	11.00*	
	Operating			TRN	455,167B	417,110B	872,277B
	Investment: Capital			TRN	75,000D	965,000D	1,040,000D
29	Lanai Highways and Services	TRN	551		3.00*	3.00*	
	Operating			TRN	97,956B	93,784B	191,740B
	Investment: Capital			TRN	D	60,000D	60,000D
30	Kauai Highways and Services	TRN	561		41.00*	41.00*	
	Operating			TRN	1,279,173B	1,301,814B	2,580,987B
	Investment: Capital			TRN	1,007,000D	2,600,000D	3,607,000D
				TRN	K	1,885,000K	1,885,000K
31	Land Transportation Fac & Svcs Support	TRN	595		42.00*	42.00*	
	Operating			TRN	16,094,404B	17,598,707B	33,693,111B
					4.00*	4.00*	
	Investment: Capital			TRN	105,726N	102,819N	208,545N
				TRN	1,633,000D	1,702,000D	3,335,000D
				TRN	2,025,000N	1,975,000N	4,000,000N
32	OVERALL PROGRAM SUPPORT FOR TRANS FAC &	TRN	995		65.00*	65.00*	
	Operating			TRN	2,099,372B	2,124,800B	4,224,172B
<b>D. ENVIRONMENTAL PROTECTION</b>							
<b>POLLUTION CONTROL</b>							
1	Solids, Liquids, Gases, and Noise	HTH	840		43.50*	43.50*	
	Operating			HTH	679,252A	706,140A	1,385,392A
					10.00*	10.00*	
	Investment: Capital			HTH	277,311N	288,623N	565,934N
				HTH	6,000,000C	6,000,000C	12,000,000C
2	Pesticides	AGR	846		8.00*	8.00*	
	Operating			AGR	108,442A	114,379A	222,821A

				APPROPRIATIONS						
Item No.	Program	Program ID		Exp. Agy.	FY	C O D E	FY	C O D E	Total Biennium	C O D E
		Org.	No.		1977-1978		1978-1979		1977-1979	
PRESERVATION AND ENHANCEMENT										
3	Fish and Wildlife	LNR	401		14.00*		14.00*			
	Operating			LNR	178,543A		166,277A		344,820A	
				LNR	61,150N		62,089N		123,239N	
4	Forests and Open Spaces	LNR	402		51.00*		51.00*			
	Operating			LNR	924,256A		948,734A		1,872,990A	
				LNR	80,700N		80,700N		161,400N	
	Investment: Capital			LNR	75,000C		31,000C		106,000C	
5	Mineral Resources	LNR	403		2.00*		2.00*			
	Operating			LNR	34,928A		36,478A		71,406A	
				LNR	50,000N		50,000N		100,000N	
6	Water Resources	LNR	404		11.00*		11.00*			
	Operating			LNR	862,263A		785,413A		1,647,676A	
				LNR	600,000N		555,000N		1,155,000N	
				LNR	12,900R		12,900R		25,800R	
7	Coastal Areas	TRN	903							
	Investment: Capital			TRN	80,000C		350,000C		430,000C	
GENERAL SUPPORT FOR NAT PHYS ENVIRONMENT										
8	Policy Dvlpment, Coord & Anlys for Nat P	GOV	401		11.00*		10.00*			
	Operating			GOV	325,176A		237,845A		563,021A	
9	LNR—Natural Physical Environment	LNR	906		28.50*		28.50*			
	Operating			LNR	811,438A		798,091A		1,609,529A	
				LNR	70,000N		70,000N		140,000N	

10	HTH—Natural Physical Environment	HTH	849			
	Operating	HTH		8.00*	8.00*	
		HTH		248,151A	252,041A	500,192A
		HTH		3.00*	3.00*	
		HTH		71,736N	72,166N	143,902N

# **E. HEALTH**

## **PHYSICAL HEALTH**

	Communicable Diseases					
1	Tuberculosis	HTH	101			
	Operating	HTH		35.00*	35.00*	
		HTH		743,587A	791,041A	1,534,628A
		HTH		10.00*	10.00*	
		HTH		177,584N	182,141N	359,725N
2	Leprosy	HTH	111			
	Operating	HTH		93.00*	93.00*	
		HTH		1,833,632A	1,872,887A	3,706,519A
		HTH		109,279B	109,246B	218,525B
3	Venereal Disease	HTH	121			
	Operating	HTH		10.00*	10.00*	
		HTH		281,213A	271,827A	553,040A
		HTH		4.00*	4.00*	
		HTH		98,393N	87,355N	185,748N
4	Other Communicable Diseases	HTH	131			
	Operating	HTH		10.00*	10.00*	
		HTH		208,202A	208,039A	416,241A
		HTH		2.00*	2.00*	
		HTH		60,548N	61,572N	122,120N
5	Supporting Services for Commun.Diseases	HTH	139			
	Operating	HTH		6.00*	6.00*	
		HTH		74,093A	75,085A	149,178A
6	Dental Diseases	HTH	141			
				50.00*	50.00*	

Item No.	Program	Program ID		APPROPRIATIONS		
		Org.	No.	Exp. Agy.	FY 1977-1978	Total Biennium 1977-1979
	Operating			HTH	677,005A 1.20*	693,259A 1.20*
7	Chronic Diseases	HTH	151	HTH	24,010N	49,150N
	Operating			HTH	3.00* 227,718A	3.00* 227,918A
8	Nutrition Services	HTH	160	HTH	2.00* 116,177N	2.00* 116,277N
	Operating			HTH	5.75* 88,322A	5.75* 90,214A
9	Emergency Medical Services	HTH	170	HTH	8.25* 598,844N	8.25* 166,289N
	Operating			HTH	5.00* 277,268A	5.00* 289,797A
10	Sensory Deficiencies	HTH	180	HTH	6.00* 570,117N	6.00* 526,414N
	Operating			HTH	6.00* 99,272A	6.00* 104,451A
11	Family Planning	HTH	185	HTH	20.25* 92,160A	20.25* 102,322A
	Operating			HTH	20.25* 1,472,377N	20.25* 1,478,778N
12	School Health Services	HTH	191	HTH	13.00* 1,117,478A	13.00* 1,175,641A
	Operating			HTH	13.00* 1,117,478A	13.00* 1,175,641A

13	Hospital Care Hilo Hospital Operating	HTH	211	HTH	2,344,451A 496.20*	2,388,427A 496.20*	4,732,878A
	Investment: Capital			HTH	7,793,000B	7,889,000B	15,682,000B
14	Honokaa Hospital Operating	HTH	212	AGS	400,000C	C	400,000C
				HTH	266,365A 44.00*	273,767A 44.00*	540,132A
				HTH	594,868B	608,000B	1,202,868B
15	Ka'u Hospital Operating	HTH	213	HTH	302,212A 29.00*	270,101A 29.00*	572,313A
				HTH	264,819B	283,160B	547,979B
16	Kohala Hospital Operating	HTH	214	HTH	203,146A 30.00*	205,606A 30.00*	408,752A
	Investment: Capital			HTH	315,466B	320,384B	635,850B
17	Kona Hospital Operating	HTH	215	AGS	18,000C	C	18,000C
				HTH	1,001,167A 120.00*	887,625A 121.00*	1,888,792A
				HTH	1,299,058B	1,415,130B	2,714,188B
18	Maui Memorial Hospital Operating	HTH	221	HTH	1,235,729A 275.50*	1,277,499A 275.50*	2,513,228A
				HTH	4,500,000B	4,680,000B	9,180,000B
19	Hana Medical Center Operating	HTH	222	HTH	149,866A 6.00*	167,788A 6.00*	317,654A
				HTH	49,500B	51,000B	100,500B
20	Kula Hospital Operating	HTH	223	HTH	1,380,992A 179.00*	1,396,945A 179.00*	2,777,937A
	Investment: Capital			HTH	1,426,640B	1,448,040B	2,874,680B
				AGS	C	4,203,000C	4,203,000C

Item No.	Program	Program ID		APPROPRIATIONS			
		Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
21	Lanai Hospital Operating	HTH	224				
				HTH	270,792A	266,425A	537,217A
				HTH	17.50*	17.50*	
22	Kauai Memorial Hospital Operating	HTH	231				
				HTH	147,000B	153,000B	300,000B
				HTH	783,160A	812,404A	1,595,564A
23	Samuel Mahelona Memorial Hospital Operating	HTH	232				
				HTH	82.00*	82.00*	
				HTH	1,083,803B	1,133,774B	2,217,577B
24	Maluhia Hospital Operating	HTH	241				
				HTH	1,371,276A	1,414,551A	2,785,827A
				HTH	137.00*	137.00*	
25	Leahi Hospital Operating	HTH	242				
				HTH	741,600B	741,600B	1,483,200B
				AGS	26,000C	C	26,000C
26	MENTAL HEALTH Community Based Services for MH Operating	HTH	401				
				HTH	800,813A	881,614A	1,682,427A
				HTH	180.50*	180.50*	
27	Investment: Capital	HTH	401				
				HTH	2,139,377B	2,167,408B	4,306,785B
				AGS	185,000C	C	185,000C
28	Operating	HTH	401				
				HTH	2,284,384A	2,312,858A	4,597,242A
				HTH	321.00*	321.00*	
29	Operating	HTH	401				
				HTH	2,905,461B	3,050,734B	5,956,195B
				AGS	535,000C	700,000C	1,235,000C
30	Operating	HTH	401				
				HTH	352.50*	352.50*	
				HTH	4,827,482A	5,314,224A	10,141,706A
31	Operating	HTH	401				
				HTH	12.50*	12.50*	
				HTH	1,999,269N	1,979,766N	3,979,035N
32	Operating	HTH	401				
				HTH	1,344,667P	1,273,223P	2,617,890P
				HTH			

27	Hawaii State Hospital	HTH	430		348.00*	348.00*	
	Operating			HTH	5,248,604A	5,476,335A	10,724,939A
28	General Support for MH	HTH	495		40.50*	40.50*	
	Operating			HTH	726,505A	756,308A	1,482,813A
				HTH	4.00*	4.00*	
				HTH	76,756N	80,548N	157,304N
	MENTAL RETARDATION						
29	Early Identification & Treatment for MR	HTH	500		59.60*	59.60*	
	Operating			HTH	532,570A	651,191A	1,183,761A
				HTH	29.45*	29.45*	
				HTH	744,397N	761,063N	1,505,460N
				HTH	1,000,000P	1,000,000P	2,000,000P
30	Community Based Services for MR	HTH	501		30.00*	30.00*	
	Operating			HTH	1,092,066A	1,142,047A	2,234,113A
				HTH	41.00*	41.00*	
				HTH	656,636N	687,476N	1,344,112N
31	Waimano Training School and Hospital	HTH	511		590.00*	590.00*	
	Operating			HTH	7,927,246A	8,177,445A	16,104,691A
	COMMUNITY HEALTH SERVICES						
32	Vector Control	HTH	601		87.00*	87.00*	
	Operating			HTH	1,102,506A	1,150,681A	2,253,187A
				HTH	6,000T	6,000T	12,000T
				HTH	2.00*	2.00*	
				HTH	17,921X	18,712X	36,633X
33	Sanitation & Substance Control	HTH	611		73.50*	73.50*	
	Operating			HTH	1,188,749A	1,246,571A	2,435,320A
				HTH	1.00*	1.00*	
				HTH	15,109N	15,812N	30,921N

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS					
		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
34	Drinking Water Quality	HTH	621							
	Operating			HTH	3.00*		3.00*			
					27,685A		29,013A		56,698A	
				HTH	1.00*		1.00*			
	Investment: Capital			HTH	150,000N		150,000N		300,000N	
				HTH	980,000C		1,733,000C		2,713,000C	
35	MEDICAL FACILITIES—STDS, INSPECTION, LICEN	HTH	701							
	Operating			HTH	5.00*		5.00*			
					81,591A		84,854A		166,445A	
				HTH	9.50*		9.50*			
				HTH	255,561N		263,446N		519,007N	
	OVERALL PROGRAM SUPPORT									
36	Laboratory Services	HTH	901							
	Operating			HTH	48.50*		48.50*			
					782,565A		799,719A		1,582,284A	
				HTH	6.00*		6.00*			
				HTH	129,926N		133,388N		263, 314N	
37	Public Health Nursing Services	HTH	902							
	Operating			HTH	126.00*		126.00*			
					1,900,184A		1,940,541A		3,840,725A	
				HTH	4.00*		4.00*			
	Investment: Capital			HTH	45,312N		45,816N		91,128N	
				AGS	100,000C		C		100,000C	
38	Records, Data Collection and Research	HTH	903							
	Operating			HTH	35.00*		35.00*			
					581,844A		592,387A		1,174,231A	
				HTH	2.00*		2.00*			
				HTH	30,472N		31,887N		62,359N	
39	Health Education	HTH	908							
					16.00*		16.00*			

	Operating		HTH	401,149A 1.00*	418,454A 1.00*	819,603A
			HTH	9,715N	10,200N	19,915N
40	Comprehensive Health Planning	HTH	906	6.00*	6.00*	
	Operating		HTH	148,500A 25.00*	103,417A 26.00*	251,917A
			HTH	560,099N	598,079N	1,158,178N
41	General Administration	HTH	907	121.00*	121.00*	
	Operating		HTH	2,498,694A 12.00*	2,606,907A 12.00*	5,105,601A
			HTH	254,706B 6.50*	262,315B 6.50*	517,021B
			HTH	191,497N	192,023N	383,520N
42	Private Hospitals & Medical Services	SUB	601			
	Operating		HTH	275,000A	275,000A	550,000A
<b>F. SOCIAL PROBLEMS</b>						
<b>ALLEVIATION OF INDIVIDUAL</b>						
<b>AND GROUP PROB</b>						
1	Assistance to Families and/or Children Services to School-Age Hawaiians	HHL	601	4.00*	4.00*	
	Operating		HHL	477,703B	482,089B	959,792B
2	Services to Families and/or Children	SOC	101	60.03*	60.03	
	Operating		SOC	2,428,704A 86.39*	2,489,896A 86.39*	4,918,600A
			SOC	5,549,367N	5,608,210N	11,157,577N
			SOC	99,838R	100,038R	199,876R
			SOC	237,025U	237,025U	474,050U
3	Assistance to Individual Adults	SOC	121	31.02*	31.02*	

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS		
		Org.	No.		FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
	Operating			SOC	921,302A 41.21*	969,670A 41.21*	1,890,972A
				SOC	4,408,587N	4,373,624N	8,782,211N
				SOC	22,037R	22,037R	44,074R
				SOC	913,450U	896,697U	1,810,147U
ASSURED STANDARD OF LIVING							
Monetary Assistance for General Needs							
4	Paymnts to Assist Families with Depndnt	SOC	201				
	Operating			SOC	37,624,568A	40,456,592A	78,081,160A
				SOC	37,875,652N	39,566,750N	77,442,402N
				SOC	3,000,000P	2,000,000P	5,000,000P
5	Paymnts to Assist the Aged, Blind & Disa	SOC	202				
	Operating			SOC	5,159,948A	5,623,342A	10,783,290A
6	Paymnts to Assist in Child Welfr Foster	SOC	203				
	Operating			SOC	1,345,787A	1,393,342A	2,739,129A
7	Other General Assistance Payments	SOC	204				
	Operating			SOC	22,731,097A	23,892,853A	46,623,950A
8	Housing Assistance						
	Rental Housing Augmentation and Assistan	SOC	220				
	Operating			SOC	8.00* 1,048,554A 21.50*	8.00* 1,095,556A 21.50*	2,144,110A
				SOC	1,735,065B 193.00*	2,183,576B 193.00*	3,918,641B
				SOC	5,822,884N	5,626,683N	11,449,567N

9	Private Housing Augmentation Housing Loans to Native Hawaiians	HHL	611		36.00*	36.00*	
	Operating			HHL	768,856B	795,664B	1,564,520B
	Investment: Capital			HHL	2,818,000C	4,760,000C	7,578,000C
10	Private Housing Development & Ownership	SOC	225				
	Operating			SOC	23.00*	23.00*	
					710,605B	727,823B	1,438,428B
11	Broadened Homesite Ownership	SOC	223				
	Operating			SOC	1.00*	1.00*	
					26,820A	26,927A	53,747A
12	Housing Assistance Administration	SOC	229				
	Operating			SOC	5.60*	5.60*	
					76,848A	88,187A	165,035A
					13.00*	13.00*	
				SOC	268,858B	285,243B	554,101B
					10.40*	10.40*	
				SOC	214,900N	211,569N	426,469N
13	Health Care Assistance Health Care Payments Operating	SOC	230				
				SOC	43,181,019A	49,629,519A	92,810,538A
				SOC	35,620,667N	39,644,167N	75,264,834N
				SOC	4,000,000P	3,000,000P	7,000,000P
14	Health Care Services	HTH	801				
	Operating				45.10*	45.10*	
				HTH	323,657A	362,247A	685,904A
					57.00*	57.00*	
				HTH	1,387,000N	1,440,932N	2,827,932N
				HTH	1,000,000P	1,000,000P	2,000,000P
15	Veterans Cemeteries and Burial Payments Operating	SUB	806				
				HTH	26,250A	26,250A	52,500A

Item No.	Program	Program ID		Exp. Agency	APPROPRIATIONS		
		Org.	No.		FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
16	General Support for Assured Std of Livin Eligibility Determination	SOC	236				
	Operating			SOC	282.60* 3,860,586A 215.75*	281.17* 4,249,794A 217.18*	8,110,380A
				SOC	4,245,201N	3,614,527N	7,859,728N
17	Disability Determination	SOC	238				
	Operating			SOC	52.00* 1,129,029N	52.00* 1,178,019N	2,307,048N
OVERALL PROGRAM SUPPORT FOR SOCIAL PROBL							
18	Plan, Program Dev & Coord of Svcs for Di Research & Development	GOV	860				
				GOV	132,333A 7.00*	133,306A 7.00*	265,639A
	Operating			GOV	2,480,556A 8.00*	2,572,340A 8.00*	5,052,896A
				GOV	574,471N	594,781N	1,169,252N
				GOV	58,300U	61,215U	119,515U
19	Plan, Program Dev & Coord of Svcs for C	GOV	861				
	Operating			GOV	9.00* 184,823A	9.00* 201,383A	386,206A
20	Plan, Program Dev & Coord of Svcs for Eld	GOV	602				
	Operating			GOV	5.55* 540,589A 7.45*	5.55* 481,792A 7.45*	1,022,381A
				GOV	1,845,000N	1,845,000N	3,690,000N
				GOV	500,000P	500,000P	1,000,000P

21	General Support for Public Welfare	SOC	903			
	Operating			28.74*	28.74*	
		SOC		1,876,102A	1,900,885A	3,776,987A
				33.26*	33.26*	
		SOC		1,923,100N	1,765,190N	3,688,290N
22	General Administration	SOC	904			
	Operating			97.06*	97.65*	
		SOC		1,624,678A	1,660,405A	3,285,083A
				27.94*	27.35*	
		SOC		1,009,387N	1,017,658N	2,027,045N

**G. FORMAL EDUCATION  
LOWER EDUCATION**

**Instruction**

Regular Instruction Program	EDN	105				
Operating			6,630.50*	6,630.50*		
	EDN		108,909,513A	108,086,887A	216,996,400A	
	EDN		13,152,355N	13,066,637N	26,218,992N	
	EDN		3,000,000P	2,500,000P	5,500,000P	
	AGS		17,527,000C	12,456,000C	29,983,000C	

**Investment: Capital**

Provided, that EDN 105 is comprised of EDN 105-1 through EDN 105-223 and Federal Funds from P.L. 90-576;

Provided, further, that the general fund amounts appropriated for the operating cost category for EDN 105 are comprised of \$107,313,649 for "Operating: Basic Needs" and \$1,595,864 for "Operating: Special Needs" for fiscal year 1977-1978 and \$108,086,887 for "Operating: Basic Needs" for fiscal year 1978-1979 and the general fund amount for the total biennium is comprised of \$215,400,536 for "Operating: Basic Needs" and \$1,595,864 for "Operating: Special Needs."

Item No.	Program	Program ID		APPROPRIATIONS			
		Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
	Central District Schools						
	Aiea Elementary	ED	105-1				
	Operating: Basic Needs			EDN	20.00*	20.00*	
	Operating: Special Needs			EDN	397,823	397,711	795,534
					5,500A		5,500A
	Aiea High	EDN	105-2				
	Operating: Basic Needs			EDN	73.00*	73.00*	
	Operating: Special Needs			EDN	1,340,515	1,348,816	2,689,331
					15,482A		15,482A
	Aiea Intermediate	EDN	105-3				
	Operating: Basic Needs			EDN	38.00*	38.00*	
	Operating: Special Needs			EDN	716,166	715,153	1,431,319
					8,944A		8,944A
	Aliamanu Elementary	EDN	105-4				
	Operating: Basic Needs			EDN	45.00*	45.00*	
	Operating: Special Needs			EDN	847,054	848,610	1,695,664
					10,302A		10,302A
	Aliamanu Intermediate	EDN	105-5				
	Operating: Basic Needs			EDN	50.00*	50.00*	
	Operating: Special Needs			EDN	926,385	927,014	1,853,399
					11,086A		11,086A
	Hale Kula Elementary	EDN	105-6				
	Operating: Basic Needs			EDN	43.00*	43.00*	
	Operating: Special Needs			EDN	753,518	756,858	1,510,376
					9,518A		9,518A

Haleiwa Elementary	EDN 105-7		16.00*	16.00*	
Operating: Basic Needs		EDN	302,537	301,806	604,343
Operating: Special Needs		EDN	4,793A		4,793A
Helemano Elementary	EDN 105-8		15.00*	15.00*	
Operating: Basic Needs		EDN	290,266	290,388	580,654
Operating: Special Needs		EDN	4,660A		4,660A
Hickam Elementary	EDN 105-9		29.00*	29.00*	
Operating: Basic Needs		EDN	491,585	493,776	985,361
Operating: Special Needs		EDN	6,900A		6,900A
Iliahi Elementary	EDN 105-10		13.00*	13.00*	
Operating: Basic Needs		EDN	265,495	264,658	530,153
Operating: Special Needs		EDN	4,268A		4,268A
Kaala Elementary	EDN 105-11		24.00*	24.00*	
Operating: Basic Needs		EDN	461,606	463,592	925,198
Operating: Special Needs		EDN	5,822A		5,822A
Kipapa Elementary	EDN 105-12		30.00*	30.00*	
Operating: Basic Needs		EDN	514,053	515,656	1,029,709
Operating: Special Needs		EDN	7,334A		7,334A
Kunia Elementary	EDN 105-13		4.00*	4.00*	
Operating: Basic Needs		EDN	75,931	75,469	151,400
Operating: Special Needs		EDN	2,609A		2,609A
Leilehua High	EDN 105-14		84.00*	84.00*	
Operating: Basic Needs		EDN	1,485,954	1,487,429	2,973,383
Operating: Special Needs		EDN	17,281A		17,281A

Item No.	Program	Program ID		APPROPRIATIONS						
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
	Makalapa Elementary	EDN	105-15		20.00*		20.00*			
	Operating: Basic Needs			EDN	358,465		365,088		723,553	
	Operating: Special Needs			EDN	5,346A				5,346A	
	Mililani High	EDN	105-16		48.00*		48.00*			
	Operating: Basic Needs			EDN	789,638		775,256		1,564,894	
	Operating: Special Needs			EDN	10,589A				10,589A	
	Mililani-Uka Elementary	EDN	105-17		28.00*		28.00*			
	Operating: Basic Needs			EDN	473,258		482,877		956,135	
	Operating: Special Needs			EDN	6,949A				6,949A	
	Mililani-Waena Elementary	EDN	105-18		34.00*		34.00*			
	Operating: Basic Needs			EDN	580,640		582,573		1,163,213	
	Operating: Special Needs			EDN	7,740A				7,740A	
	Moanalua Elementary	EDN	105-19		31.00*		31.00*			
	Operating: Basic Needs			EDN	587,551		585,000		1,172,551	
	Operating: Special Needs			EDN	7,558A				7,558A	
	Moanalua High	EDN	105-20		62.00*		62.00*			
	Operating: Basic Needs			EDN	1,068,084		1,056,255		2,124,339	
	Operating: Special Needs			EDN	13,347A				13,347A	

Moanalua Intermediate	EDN 105-21		33.00*	33.00*	
Operating: Basic Needs		EDN	568,479	577,031	1,145,510
Operating: Special Needs		EDN	7,775A		7,775A
Mokulele Elementary	EDN 105-22		25.00*	25.00*	
Operating: Basic Needs		EDN	464,711	464,052	928,763
Operating: Special Needs		EDN	6,046A		6,046A
Nimitz Elementary	EDN 105-23		33.00*	33.00*	
Operating: Basic Needs		EDN	609,669	610,806	1,220,475
Operating: Special Needs		EDN	8,027A		8,027A
Pearl Harbor Elementary	EDN 105-24		32.00*	32.00*	
Operating: Basic Needs		EDN	580,961	580,516	1,161,477
Operating: Special Needs		EDN	7,516A		7,516A
Pearl Harbor Kai Elementary	EDN 105-25		20.00*	20.00*	
Operating: Basic Needs		EDN	393,554	393,344	786,898
Operating: Special Needs		EDN	5,514A		5,514A
Pearl Ridge Elementary	EDN 105-26		19.00*	19.00*	
Operating: Basic Needs		EDN	328,916	329,278	658,194
Operating: Special Needs		EDN	5,059A		5,059A
Radford High	EDN 105-27		87.00*	87.00*	
Operating: Basic Needs		EDN	1,615,974	1,618,516	3,234,490
Operating: Special Needs		EDN	17,848A		17,848A
Red Hill Elementary	EDN 105-28		25.00*	25.00*	
Operating: Basic Needs		EDN	461,316	487,644	948,960
Operating: Special Needs		EDN	6,431A		6,431A

Item No.	Program	Program ID		APPROPRIATIONS						
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
	Salt Lake Elementary	EDN	105-29							
	Operating: Basic Needs			EDN	33.00*		33.00*			
	Operating: Special Needs			EDN	614,876		615,977		1,230,853	
					8,034A				8,034A	
	Scott Elementary	EDN	105-30							
	Operating: Basic Needs			EDN	34.00*		34.00*			
	Operating: Special Needs			EDN	666,074		667,756		1,333,830	
					8,195A				8,195A	
	Shafter Elementary	EDN	105-31							
	Operating: Basic Needs			EDN	17.00*		17.00*			
	Operating: Special Needs			EDN	310,896		311,685		622,581	
					5,164A				5,164A	
	Solomon Elementary	EDN	105-32							
	Operating: Basic Needs			EDN	41.00*		41.00*			
	Operating: Special Needs			EDN	712,037		714,224		1,426,261	
					9,455A				9,455A	
	Wahiawa Elementary	EDN	105-33							
	Operating: Basic Needs			EDN	25.00*		25.00*			
	Operating: Special Needs			EDN	501,536		501,554		1,003,090	
					6,438A				6,438A	
	Wahiawa Intermediate	EDN	105-34							
	Operating: Basic Needs			EDN	41.00*		41.00*			
	Operating: Special Needs			EDN	736,895		732,525		1,469,420	
					9,252A				9,252A	
	Waialua Elementary	EDN	105-35							
	Operating: Basic Needs			EDN	19.00*		19.00*			
	Operating: Special Needs			EDN	310,495		312,567		623,062	
					5,304A				5,304A	

Waialua High-Intermediate	EDN 105-36		40.00*	40.00*	
Operating: Basic Needs		EDN	697,024	697,264	1,394,288
Operating: Special Needs		EDN	8,979A		8,979A
Webbling Elementary	EDN 105-37		16.00*	16.00*	
Operating: Basic Needs		EDN	322,170	322,455	644,625
Operating: Special Needs		EDN	4,737A		4,737A
Wheeler Elementary	EDN 105-38		30.00*	30.00*	
Operating: Basic Needs		EDN	552,920	556,564	1,109,484
Operating: Special Needs		EDN	7,159A		7,159A
Wheeler Intermediate	EDN 105-39		27.00*	27.00*	
Operating: Basic Needs		EDN	459,132	462,400	921,532
Operating: Special Needs		EDN	6,844A		6,844A
Hawaii District Schools					
DeSilva Elementary	EDN 105-40		13.00*	13.00*	
Operating: Basic Needs		EDN	260,808	261,596	522,404
Operating: Special Needs		EDN	4,583A		4,583A
Haaheo Elementary	EDN 105-41		5.00*	5.00*	
Operating: Basic Needs		EDN	92,491	92,716	185,207
Operating: Special Needs		EDN	2,805A		2,805A
Hilo High	EDN 105-42		77.00*	77.00*	
Operating: Basic Needs		EDN	481,075	1,480,811	2,961,886
Operating: Special Needs		EDN	15,937A		15,937A
Hilo Intermediate	EDN 105-43		19.00*	19.00*	
Operating: Basic Needs		EDN	373,154	370,363	743,517
Operating: Special Needs		EDN	5,759A		5,759A

Item No.	Program	Program ID		APPROPRIATIONS			Total Biennium 1977-1979	C O D E
		Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979		
	Hilo Union Elementary	EDN	105-44		25.00*	25.00*		
	Operating: Basic Needs			EDN	480,102	483,578	963,680	
	Operating: Special Needs			EDN	6,291A		6,291A	
	Holualoa Elementary	EDN	105-45		9.00*	9.00*		
	Operating: Basic Needs			EDN	164,211	164,822	329,033	
	Operating: Special Needs			EDN	3,568A		3,568A	
	Honaunau Elementary	EDN	105-46		9.00*	9.00*		
	Operating: Basic Needs			EDN	171,363	172,879	344,242	
	Operating: Special Needs			EDN	3,610A		3,610A	
	Honokaa High-Elementary	EDN	105-47		39.00*	39.00*		
	Operating: Basic Needs			EDN	720,930	724,940	1,445,870	
	Operating: Special Needs			EDN	8,426A		8,426A	
	Hookena Elementary	EDN	105-48		5.00*	5.00*		
	Operating: Basic Needs			EDN	96,186	96,474	192,660	
	Operating: Special Needs			EDN	2,847A		2,847A	
	Kalaniana'ole Elementary-Intermediate	EDN	105-49		34.00*	34.00*		
	Operating: Basic Needs			EDN	619,932	619,738	1,239,670	
	Operating: Special Needs			EDN	7,173A		7,173A	
	Kapiolani Elementary	EDN	105-50		22.00*	22.00*		
	Operating: Basic Needs			EDN	425,660	427,896	853,556	
	Operating: Special Needs			EDN	6,165A		6,165A	

Ka'u High and Pahala Elementary	EDN 105-51		26.00*	26.00*	
Operating: Basic Needs		EDN	463,573	466,095	929,668
Operating: Special Needs		EDN	5,717A		5,717A
Kaumana Elementary	EDN 105-52		7.00*	7.00*	
Operating: Basic Needs		EDN	124,611	125,285	249,896
Operating: Special Needs		EDN	3,274A		3,274A
Keaau Elementary-Intermediate	EDN 105-53		19.00*	19.00*	
Operating: Basic Needs		EDN	377,622	379,844	757,466
Operating: Special Needs		EDN	5,416A		5,416A
Kealahou Elementary	EDN 105-54		40.00*	40.00*	
Operating: Basic Needs		EDN	692,126	696,022	1,388,148
Operating: Special Needs		EDN	9,238A		9,238A
Keaukaha Elementary	EDN 105-55		8.00*	8.00*	
Operating: Basic Needs		EDN	164,785	165,617	330,402
Operating: Special Needs		EDN	3,561A		3,561A
Kohala High-Elementary	EDN 105-56		33.00*	33.00*	
Operating: Basic Needs		EDN	599,115	602,009	1,201,124
Operating: Special Needs		EDN	7,103A		7,103A
Konawaena Elementary	EDN 105-57		24.00*	24.00*	
Operating: Basic Needs		EDN	468,450	469,972	938,422
Operating: Special Needs		EDN	6,081A		6,081A
Konawaena High-Intermediate	EDN 105-58		44.00*	44.00*	
Operating: Basic Needs		EDN	830,069	833,663	1,663,732
Operating: Special Needs		EDN	10,155A		10,155A

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS			Total Biennium 1977-1979	C O D E
		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979	C O D E	
	Laupahoehoe High-Elementary	EDN	105-59		20.00*		20.00*		
	Operating: Basic Needs			EDN	385,602		387,741		773,343
	Operating: Special Needs			EDN	4,562A				4,562A
	Mountain View Elementary and Intermediate	EDN	105-60		12.00*		12.00*		
	Operating: Basic Needs			EDN	228,123		229,067		457,190
	Operating: Special Needs			EDN	3,897A				3,897A
	Naalehu Elementary	EDN	105-61		11.00*		11.00*		
	Operating: Basic Needs			EDN	203,911		205,482		409,393
	Operating: Special Needs			EDN	3,813A				3,813A
	Paauiilo Elementary-Intermediate	EDN	105-62		8.50*		8.50*		
	Operating: Basic Needs			EDN	157,926		160,428		318,354
	Operating: Special Needs			EDN	3,379A				3,379A
	Pahoa High-Elementary	EDN	105-63		42.00*		42.00*		
	Operating: Basic Needs			EDN	732,905		738,260		1,471,165
	Operating: Special Needs			EDN	8,615A				8,615A
	Waiakea Elementary	EDN	105-64		26.00*		26.00*		
	Operating: Basic Needs			EDN	505,218		506,887		1,012,105
	Operating: Special Needs			EDN	6,718A				6,718A
	Waiakea High	EDN	105-65		25.00*		25.00*		
	Operating: Basic Needs			EDN	553,255		479,552		1,032,807
	Operating: Special Needs			EDN	6,774A				6,774A

Waiakea Intermediate	EDN 105-66		21.00*	21.00*	
Operating: Basic Needs		EDN	408,700	410,403	819,103
Operating: Special Needs		EDN	5,584A		5,584A
Waiakeawaena Elementary	EDN 105-67		33.00*	33.00*	
Operating: Basic Needs		EDN	684,789	687,606	1,372,395
Operating: Special Needs		EDN	7,887A		7,887A
Waimea Elementary-Intermediate	EDN 105-68		22.00*	22.00*	
Operating: Basic Needs		EDN	403,346	405,189	808,535
Operating: Special Needs		EDN	6,025A		6,025A
Honolulu District Schools					
Aina Haina Elementary	EDN 105-69		19.00*	19.00*	
Operating: Basic Needs		EDN	415,854	416,844	830,520
Operating: Special Needs		EDN	5,598A		5,598A
Ala Wai Elementary	EDN 105-70		33.00*	33.00*	
Operating: Basic Needs		EDN	641,381	644,852	1,286,233
Operating: Special Needs		EDN	7,614A		7,614A
Aliiolani Elementary	EDN 105-71		18.00*	18.00*	
Operating: Basic Needs		EDN	389,375	390,087	779,462
Operating: Special Needs		EDN	5,297A		5,297A
Anuenue Elementary	EDN 105-72		8.00*	8.00*	
Operating: Basic Needs		EDN	158,002	157,902	315,904
Operating: Special Needs		EDN	3,295A		3,295A
Central Intermediate	EDN 105-73		27.00*	27.00*	
Operating: Basic Needs		EDN	493,551	493,998	987,549
Operating: Special Needs		EDN	6,368A		6,368A

Item No.	Program	Program ID		APPROPRIATIONS			Total Biennium 1977-1979	C O D E
		Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979		
	Dole Intermediate	EDN	105-74		44.00*	44.00*		
	Operating: Basic Needs			EDN	834,646	836,448	1,671,094	
	Operating: Special Needs			EDN	9,861A		9,861A	
	Farrington High	EDN	105-75		95.00*	95.00*		
	Operating: Basic Needs			EDN	1,854,355	1,861,570	3,715,925	
	Operating: Special Needs			EDN	19,766A		19,766A	
	Fern Elementary	EDN	105-76		28.00*	28.00*		
	Operating: Basic Needs			EDN	556,018	559,692	1,115,710	
	Operating: Special Needs			EDN	6,585A		6,585A	
	Hahaione Elementary	EDN	105-77		29.00*	29.00*		
	Operating: Basic Needs			EDN	545,040	551,786	1,096,826	
	Operating: Special Needs			EDN	6,998A		6,998A	
	Hokulani Elementary	EDN	105-78		9.00*	9.00*		
	Operating: Basic Needs			EDN	196,352	196,588	392,940	
	Operating: Special Needs			EDN	3,785A		3,785A	
	Jarrett Intermediate	EDN	105-79		24.00*	24.00*		
	Operating: Basic Needs			EDN	480,114	480,110	960,224	
	Operating: Special Needs			EDN	5,899A		5,899A	
	Jefferson Elementary	EDN	105-80		28.00*	28.00*		
	Operating: Basic Needs			EDN	551,909	553,132	1,105,041	
	Operating: Special Needs			EDN	6,655A		6,655A	

<b>Kaahumanu Elementary</b>	<b>EDN 105-81</b>		33.00*	33.00*	
Operating: Basic Needs		EDN	656,944	660,996	1,317,940
Operating: Special Needs		EDN	7,852A		7,852A
<b>Kaewai Elementary</b>	<b>EDN 105-82</b>		19.00*	19.00*	
Operating: Basic Needs		EDN	384,342	385,585	769,927
Operating: Special Needs		EDN	5,213A		5,213A
<b>Kahala Elementary</b>	<b>EDN 105-83</b>		20.00*	20.00*	
Operating: Basic Needs		EDN	414,750	415,925	830,675
Operating: Special Needs		EDN	5,437A		5,437A
<b>Kaimuki High</b>	<b>EDN 105-84</b>		68.00*	68.00*	
Operating: Basic Needs		EDN	1,374,678	1,381,828	2,756,506
Operating: Special Needs		EDN	14,502A		14,502A
<b>Kaimuki Intermediate</b>	<b>EDN 105-85</b>		46.00*	46.00*	
Operating: Basic Needs		EDN	827,581	825,949	1,653,530
Operating: Special Needs		EDN	9,973A		9,973A
<b>Kaiser High</b>	<b>EDN 105-86</b>		67.00*	67.00*	
Operating: Basic Needs		EDN	1,192,082	1,181,484	2,373,566
Operating: Special Needs		EDN	14,215A		14,215A
<b>Kaiulani Elementary</b>	<b>EDN 105-87</b>		17.00*	17.00*	
Operating: Basic Needs		EDN	347,071	347,526	694,597
Operating: Special Needs		EDN	4,891A		4,891A
<b>Kalakaua Intermediate</b>	<b>EDN 105-88</b>		56.00*	56.00*	
Operating: Basic Needs		EDN	1,030,691	1,037,802	2,068,493
Operating: Special Needs		EDN	11,793A		11,793A
<b>Kalani High</b>	<b>EDN 105-89</b>		68.00*	68.00*	
Operating: Basic Needs		EDN	1,341,056	1,348,982	2,690,038
Operating: Special Needs		EDN	14,180A		14,180A

Item No.	Program	Program ID			APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
	Kalihi Elementary	EDN	105-90							
	Operating: Basic Needs			EDN	20.00*		20.00*			
	Operating: Special Needs			EDN	392,085		393,132		785,217	
					5,703A				5,703A	
	Kalihi-Kai Elementary	EDN	105-91							
	Operating: Basic Needs			EDN	37.00*		37.00*			
	Operating: Special Needs			EDN	733,546		737,726		1,471,272	
					8,272A				8,272A	
	Kalihi-Uka Elementary	EDN	105-92							
	Operating: Basic Needs			EDN	15.00*		15.00*			
	Operating: Special Needs			EDN	329,596		330,690		660,286	
					4,695A				4,695A	
	Kalihi-Waena Elementary	EDN	105-93							
	Operating: Basic Needs			EDN	26.00*		26.00*			
	Operating: Special Needs			EDN	509,970		511,820		1,021,790	
					6,515A				6,515A	
	Kamiloiki Elementary	EDN	105-94							
	Operating: Basic Needs			EDN	32.00*		32.00*			
	Operating: Special Needs			EDN	626,265		633,538		1,259,803	
					7,390A				7,390A	
	Kapalama Elementary	EDN	105-95							
	Operating: Basic Needs			EDN	32.00*		32.00*			
	Operating: Special Needs			EDN	638,309		641,729		1,280,038	
					7,551A				7,551A	
	Kauluwela Elementary	EDN	105-96							
	Operating: Basic Needs			EDN	24.00*		24.00*			
	Operating: Special Needs			EDN	439,692		440,843		880,535	
					6,025A				6,025A	

Kawananakoa Intermediate	EDN	105-97	45.00*	45.00*	
Operating: Basic Needs		EDN	820,032	823,823	1,643,855
Operating: Special Needs		EDN	9,602A		9,602A
Koko Head Elementary	EDN	105-98	26.00*	26.00*	
Operating: Basic Needs		EDN	546,574	549,834	1,096,408
Operating: Special Needs		EDN	6,291A		6,291A
Kuhio Elementary	EDN	105-99	21.00*	21.00*	
Operating: Basic Needs		EDN	434,054	436,018	870,072
Operating: Special Needs		EDN	5,556A		5,556A
Lanakila Elementary	EDN	105-100	19.00*	19.00*	
Operating: Basic Needs		EDN	405,907	406,358	812,265
Operating: Special Needs		EDN	5,304A		5,304A
Liholiho Elementary	EDN	105-101	17.00*	17.00*	
Operating: Basic Needs		EDN	352,251	353,301	705,552
Operating: Special Needs		EDN	4,681A		4,681A
Likelike Elementary	EDN	105-102	21.00*	21.00*	
Operating: Basic Needs		EDN	411,766	413,015	824,781
Operating: Special Needs		EDN	5,521A		5,521A
Liliuokalani Elementary	EDN	105-103	15.00*	15.00*	
Operating: Basic Needs		EDN	316,601	317,878	634,479
Operating: Special Needs		EDN	4,324A		4,324A
Linapuni Elementary	EDN	105-104	11.00*	11.00*	
Operating: Basic Needs		EDN	213,549	214,425	427,974
Operating: Special Needs		EDN	3,897A		3,897A

Item No.	Program	Program ID		APPROPRIATIONS			
		Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
	Lincoln Elementary	EDN	105-105		24.00*	24.00*	
	Operating: Basic Needs			EDN	500,905	502,685	1,003,590
	Operating: Special Needs			EDN	6,151A		6,151A
	Lunalilo Elementary	EDN	105-106		36.00*	36.00*	
	Operating: Basic Needs			EDN	686,754	689,507	1,376,261
	Operating: Special Needs			EDN	8,132A		8,132A
	Maemae Elementary	EDN	105-107		37.00*	37.00*	
	Operating: Basic Needs			EDN	744,475	746,950	1,491,425
	Operating: Special Needs			EDN	8,363A		8,363A
	Manoa Elementary	EDN	105-108		25.00*	25.00*	
	Operating: Basic Needs			EDN	542,928	544,587	1,087,515
	Operating: Special Needs			EDN	6,410A		6,410A
	McKinley High	EDN	105-109		89.00*	89.00*	
	Operating: Basic Needs			EDN	1,679,100	1,679,745	3,358,845
	Operating: Special Needs			EDN	18,044A		18,044A
	Niu Valley Intermediate	EDN	105-110		45.00*	45.00*	
	Operating: Basic Needs			EDN	828,330	830,126	1,658,456
	Operating: Special Needs			EDN	9,805A		9,805A
	Noelani Elementary	EDN	105-111		14.00*	14.00*	
	Operating: Basic Needs			EDN	303, 150	304,727	607,877
	Operating: Special Needs			EDN	4,324A		4,324A

Nuuanu Elementary	EDN	105-112	10.00*	10.00*	
Operating: Basic Needs		EDN	204,477	205,267	409,744
Operating: Special Needs		EDN	3,687A		3,687A
Palolo Elementary	EDN	105-113	17.00*	17.00*	
Operating: Basic Needs		EDN	369,650	369,605	739,255
Operating: Special Needs		EDN	4,912A		4,912A
Pauoa Elementary	EDN	105-114	19.00*	19.00*	
Operating: Basic Needs		EDN	380,544	382,178	762,722
Operating: Special Needs		EDN	5,220A		5,220A
Puuhale Elementary	EDN	105-115	19.00*	19.00*	
Operating: Basic Needs		EDN	395,075	396,916	791,991
Operating: Special Needs		EDN	5,087A		5,087A
Roosevelt High	EDN	105-116	62.00*	62.00*	
Operating: Basic Needs		EDN	1,225,466	1,231,943	2,457,409
Operating: Special Needs		EDN	13,844A		13,844A
Royal Elementary	EDN	105-117	14.00*	14.00*	
Operating: Basic Needs		EDN	290,840	290,712	581,552
Operating: Special Needs		EDN	4,401A		4,401A
Stevenson Intermediate	EDN	105-118	40.00*	40.00*	
Operating: Basic Needs		EDN	760,277	764,145	1,524,422
Operating: Special Needs		EDN	8,797A		8,797A
Waialae Elementary	EDN	105-119	18.00*	18.00*	
Operating: Basic Needs		EDN	371,062	371,789	742,851
Operating: Special Needs		EDN	4,639A		4,639A
Waikiki Elementary	EDN	105-120	14.00*	14.00*	
Operating: Basic Needs		EDN	294,799	295,957	590,756
Operating: Special Needs		EDN	4,247A		4,247A

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS			Total Biennium 1977-1979	C O D E
		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979		
	Wailupe Valley Elementary	EDN	105-121		7.00*		7.00*		
	Operating: Basic Needs			EDN	144,396		145,559	289,955	
	Operating: Special Needs			EDN	3,015A			3,015A	
	Washington Intermediate	EDN	105-122		53.00*		53.00*		
	Operating: Basic Needs			EDN	938,130		944,813	1,882,943	
	Operating: Special Needs			EDN	11,184A			11,184A	
	Wilson Elementary	EDN	105-123		16.00*		16.00*		
	Operating: Basic Needs			EDN	346,886		347,484	694,370	
	Operating: Special Needs			EDN	4,821A			4,821A	
	Kauai District Schools								
	Eleele Elementary	EDN	105-124		15.00*		15.00*		
	Operating: Basic Needs			EDN	275,218		276,037	551,255	
	Operating: Special Needs			EDN	4,016A			4,016A	
	Hanalei Elementary	EDN	105-125		5.00*		5.00*		
	Operating: Basic Needs			EDN	82,499		83,718	166,217	
	Operating: Special Needs			EDN	2,833A			2,833A	
	Kalaheo Elementary	EDN	105-126		16.00*		16.00*		
	Operating: Basic Needs			EDN	288,372		290,803	579,175	
	Operating: Special Needs			EDN	4,520A			4,520A	
	Kapaa Elementary	EDN	105-127		33.00*		33.00*		
	Operating: Basic Needs			EDN	616,911		619,293	1,236,204	
	Operating: Special Needs			EDN	8,034A			8,034A	

Kapaa High and Intermediate	EDN	105-128	46.00*	46.00*	
Operating: Basic Needs		EDN	842,348	846,247	1,688,595
Operating: Special Needs		EDN	9,637A		9,637A
Kauai High and Intermediate	EDN	105-129	53.00*	53.00*	
Operating: Basic Needs		EDN	994,391	1,001,286	1,995,677
Operating: Special Needs		EDN	10,624A		10,624A
Kaumakani Elementary	EDN	105-130	7.00*	7.00*	
Operating: Basic Needs		EDN	122,736	123,421	246,157
Operating: Special Needs		EDN	2,798A		2,798A
Kekaha Elementary	EDN	105-131	14.00*	14.00*	
Operating: Basic Needs		EDN	220,646	220,991	441,637
Operating: Special Needs		EDN	4,345A		4,345A
Kilauea Elementary	EDN	105-132	4.00*	4.00*	
Operating: Basic Needs		EDN	71,320	71,720	143,040
Operating: Special Needs		EDN	2,539A		2,539A
Koloa Elementary	EDN	105-133	22.00*	22.00*	
Operating: Basic Needs		EDN	381,530	384,211	765,741
Operating: Special Needs		EDN	5,178A		5,178A
Niihau Elementary	EDN	105-134	3.00*	3.00*	
Operating: Basic Needs		EDN	46,079	46,222	92,301
Operating: Special Needs		EDN	2,420A		2,420A
Waimea Elementary	EDN	105-135	21.00*	21.00*	
Operating: Basic Needs		EDN	400,101	404,497	804,598
Operating: Special Needs		EDN	5,612A		5,612A
Waimea High and Intermediate	EDN	105-136	34.00*	34.00*	
Operating: Basic Needs		EDN	705,606	633,639	1,339,245
Operating: Special Needs		EDN	7,215A		7,215A

Item No.	Program	Program ID		APPROPRIATIONS			Total Biennium 1977-1979	C O D E
		Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979		
	Wilcox Elementary	EDN	105-137		30.00*	30.00*		
	Operating: Basic Needs			EDN	594,774	600,352	1,195,126	
	Operating: Special Needs			EDN	7,201A		7,201A	
	Leeward District Schools							
	August Ahrens Elementary	EDN	105-138		61.00*	61.00*		
	Operating: Basic Needs			EDN	1,126,557	1,129,220	2,255,777	
	Operating: Special Needs			EDN	12,885A		12,885A	
	Barber's Point Elementary	EDN	105-139		38.00*	38.00*		
	Operating: Basic Needs			EDN	621,174	623,435	1,244,609	
	Operating: Special Needs			EDN	9,049A		9,049A	
	Campbell High	EDN	105-140		91.00*	91.00*		
	Operating: Basic Needs			EDN	1,541,453	1,550,195	3,091,648	
	Operating: Special Needs			EDN	18,058A		18,058A	
	Ewa Elementary	EDN	105-141		17.00*	17.00*		
	Operating: Basic Needs			EDN	325,769	328,095	653,864	
	Operating: Special Needs			EDN	5,192A		5,192A	
	Ewa Beach Elementary	EDN	105-142		28.00*	28.00*		
	Operating: Basic Needs			EDN	491,223	493,976	985,199	
	Operating: Special Needs			EDN	6,921A		6,921A	
	Highlands Intermediate	EDN	105-143		52.00*	52.00*		
	Operating: Basic Needs			EDN	941,348	932,968	1,874,316	
	Operating: Special Needs			EDN	11,114A		11,114A	

Honowai Elementary	EDN	105-144			
Operating: Basic Needs			30.00*	30.00*	
Operating: Special Needs			547,911	550,124	1,098,035
			7,663A		7,663A
Ilima Intermediate	EDN	105-145			
Operating: Basic Needs			58.00*	58.00*	
Operating: Special Needs			892,011	895,503	1,787,514
			11,653A		11,653A
Iroquois Point Elementary	EDN	105-146			
Operating: Basic Needs			35.00*	35.00*	
Operating: Special Needs			598,494	599,640	1,198,134
			8,468A		8,468A
Kaimiloa Elementary	EDN	105-147			
Operating: Basic Needs			26.00*	26.00*	
Operating: Special Needs			431,591	432,993	864,584
			6,781A		6,781A
Lehua Elementary	EDN	105-148			
Operating: Basic Needs			26.00*	26.00*	
Operating: Special Needs			491,653	492,811	984,464
			6,753A		6,753A
Mali Elementary	EDN	105-149			
Operating: Basic Needs			38.00*	38.00*	
Operating: Special Needs			617,432	622,127	1,239,559
			8,776A		8,776A
Makaha Elementary	EDN	105-150			
Operating: Basic Needs			32.00*	32.00*	
Operating: Special Needs			502,139	505,180	1,007,319
			7,915A		7,915A
Makakilo Elementary	EDN	105-151			
Operating: Basic Needs			20.00*	20.00*	
Operating: Special Needs			308,510	308,311	616,821
			5,794A		5,794A
Manana Elementary	EDN	105-152			
Operating: Basic Needs			27.00*	27.00*	
Operating: Special Needs			519,541	519,794	1,039,335
			6,683A		6,683A

Item No.	Program	Program ID		APPROPRIATIONS			
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E FY 1978-1979	Total Biennium 1977-1979
	Mauka Lani Elementary	EDN	105-153		17.00*	17.00*	
	Operating: Basic Needs			EDN	284,674	287,677	572,351
	Operating: Special Needs			EDN	4,940A		4,940A
	Momilani Elementary	EDN	105-154		16.00*	16.00*	
	Operating: Basic Needs			EDN	272,525	273,388	545,913
	Operating: Special Needs			EDN	5,220A		5,220A
	Nanaikapono Elementary	EDN	105-155		28.00*	28.00*	
	Operating: Basic Needs			EDN	477,184	477,903	955,087
	Operating: Special Needs			EDN	8,412A		8,412A
	Nanakuli II Elementary	EDN	105-156		9.00*	9.00*	
	Operating: Basic Needs			EDN	208,338	172,137	380,475
	Operating: Special Needs			EDN	3,673A		3,673A
	Nanakuli High & Intermediate	EDN	105-157		54.00*	54.00*	
	Operating: Basic Needs			EDN	851,979	853,825	1,705,804
	Operating: Special Needs			EDN	10,939A		10,939A
	Palisades Elementary	EDN	105-158		35.00*	35.00*	
	Operating: Basic Needs			EDN	664,084	664,030	1,328,114
	Operating: Special Needs			EDN	8,328A		8,328A
	Pearl City Elementary	EDN	105-159		24.00*	24.00*	
	Operating: Basic Needs			EDN	493,486	494,604	988,090
	Operating: Special Needs			EDN	6,319A		6,319A

Pearl City High	EDN	105-160	94.00*	94.00*	
Operating: Basic Needs		EDN	1,624,185	1,633,397	3,257,582
Operating: Special Needs		EDN	18,366A		18,366A
Pearl City Highlands Elementary	EDN	105-161	26.00*	26.00*	
Operating: Basic Needs		EDN	525,462	528,680	1,054,142
Operating: Special Needs		EDN	6,760A		6,760A
Pohakea Elementary	EDN	105-162	31.00*	31.00*	
Operating: Basic Needs		EDN	518,939	522,183	1,041,122
Operating: Special Needs		EDN	7,754A		7,754A
Waianae Elementary	EDN	105-163	55.00*	55.00*	
Operating: Basic Needs		EDN	917,799	924,826	1,842,625
Operating: Special Needs		EDN	11,625A		11,625A
Waianae High	EDN	105-164	69.00*	69.00*	
Operating: Basic Needs		EDN	1,073,006	1,081,906	2,154,912
Operating: Special Needs		EDN	14,831A		14,831A
Waianae Intermediate	EDN	105-165	37.00*	37.00*	
Operating: Basic Needs		EDN	578,341	579,851	1,158,192
Operating: Special Needs		EDN	8,300A		8,300A
Waiau Elementary	EDN	105-166	20.00*	20.00*	
Operating: Basic Needs		EDN	352,655	355,357	708,012
Operating: Special Needs		EDN	5,360A		5,360A
Waimalu Elementary	EDN	105-167	25.00*	25.00*	
Operating: Basic Needs		EDN	504,384	507,591	1,011,975
Operating: Special Needs		EDN	6,137A		6,137A
Waipahu Elementary	EDN	105-168	34.00*	34.00*	
Operating: Basic Needs		EDN	602,616	604,694	1,207,310
Operating: Special Needs		EDN	7,859A		7,859A

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS			Total Biennium 1977-1979	C O D E
		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979		
	Waipahu High	EDN	105-169		83.00*		83.00*		
	Operating: Basic Needs			EDN	1,469,177		1,473,426	2,942,603	
	Operating: Special Needs			EDN	16,896A			16,896A	
	Waipahu Intermediate	EDN	105-170		37.00*		37.00*		
	Operating: Basic Needs			EDN	653,545		656,338	1,309,883	
	Operating: Special Needs			EDN	8,608A			8,608A	
	Maui District Schools								
	Baldwin High	EDN	105-171		52.00*		52.00*		
	Operating: Basic Needs			EDN	1,010,372		998,461	2,008,833	
	Operating: Special Needs			EDN	10,757A			10,757A	
	Haiku Elementary	EDN	105-172		12.00*		12.00*		
	Operating: Basic Needs			EDN	218,113		218,835	436,948	
	Operating: Special Needs			EDN	4,044A			4,044A	
	Hana High-Elementary	EDN	105-173		17.00*		17.00*		
	Operating: Basic Needs			EDN	267,513		263,119	530,632	
	Operating: Special Needs			EDN	3,988A			3,988A	
	Iao Elementary	EDN	105-174		18.00*		18.00*		
	Operating: Basic Needs			EDN	372,542		352,776	725,318	
	Operating: Special Needs			EDN	5,150A			5,150A	
	Kahului Elementary	EDN	105-175		36.00*		36.00*		
	Operating: Basic Needs			EDN	717,203		720,387	1,437,590	
	Operating: Special Needs			EDN	8,601A			8,601A	

<b>Kamehameha III Elementary</b>	EDN	105-176	38.00*	38.00*	
Operating: Basic Needs		EDN	654,822	658,195	1,313,017
Operating: Special Needs		EDN	8,867A		8,867A
<b>Kaunakakai Elementary</b>	EDN	105-177	12.00*	12.00*	
Operating: Basic Needs		EDN	200,166	200,609	400,775
Operating: Special Needs		EDN	4,177A		4,177A
<b>Keanae Elementary</b>	EDN	105-178	2.00*	2.00*	
Operating: Basic Needs		EDN	34,000	34,296	68,296
Operating: Special Needs		EDN	2,217A		2,217A
<b>Kihei Elementary</b>	EDN	105-179	23.00*	23.00*	
Operating: Basic Needs		EDN	390,817	393,393	784,210
Operating: Special Needs		EDN	6,179A		6,179A
<b>Kilohana Elementary</b>	EDN	105-180	5.00*	5.00*	
Operating: Basic Needs		EDN	73,807	73,908	147,715
Operating: Special Needs		EDN	2,735A		2,735A
<b>Kualapuu Elementary</b>	EDN	105-181	11.00*	11.00*	
Operating: Basic Needs		EDN	198,980	200,076	399,056
Operating: Special Needs		EDN	3,883A		3,883A
<b>Kula Elementary</b>	EDN	105-182	17.00*	17.00*	
Operating: Basic Needs		EDN	315,424	316,148	631,572
Operating: Special Needs		EDN	4,674A		4,674A
<b>Lahainaluna High</b>	EDN	105-183	28.00*	28.00*	
Operating: Basic Needs		EDN	490,681	489,919	980,600
Operating: Special Needs		EDN	6,641A		6,641A

Item No.	Program	Program ID		Exp. Agy.	APPROPRIATIONS					
		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
	Lanai High-Elementary	EDN	105-184			26.00*		26.00*		
	Operating: Basic Needs			EDN	462,072		453,199		915,271	
	Operating: Special Needs			EDN	5,822A				5,822A	
	Lihikai Elementary	EDN	105-185			35.00*		35.00*		
	Operating: Basic Needs			EDN	638,151		641,499		1,279,650	
	Operating: Special Needs			EDN	8,097A				8,097A	
	Makawao Elementary	EDN	105-186			23.00*		23.00*		
	Operating: Basic Needs			EDN	418,644		420,320		838,964	
	Operating: Special Needs			EDN	5,948A				5,948A	
	Maui High	EDN	105-187			54.00*		54.00*		
	Operating: Basic Needs			EDN	936,934		941,493		1,878,427	
	Operating: Special Needs			EDN	10,939A				10,939A	
	Maunaloa Elementary	EDN	105-188			5.00*		5.00*		
	Operating: Basic Needs			EDN	80,744		80,473		161,217	
	Operating: Special Needs			EDN	2,784A				2,784A	
	Molokai High-Intermediate	EDN	105-189			30.00*		30.00*		
	Operating: Basic Needs			EDN	446,366		447,560		893,926	
	Operating: Special Needs			EDN	6,704A				6,704A	
	Paia Elementary	EDN	105-190			10.00*		10.00*		
	Operating: Basic Needs			EDN	176,090		176,406		352,496	
	Operating: Special Needs			EDN	3,169A				3,169A	

Pukalani Elementary	EDN	105-191			
Operating: Basic Needs			13.00*	13.00*	
Operating: Special Needs	EDN		216,374	217,593	433,967
	EDN		4,422A		4,422A
Puunene Elementary	EDN	105-192			
Operating: Basic Needs			6.00*	6.00*	
Operating: Special Needs	EDN		109,496	110,311	219,807
	EDN		2,504A		2,504A
Waihee Elementary	EDN	105-193			
Operating: Basic Needs			11.00*	11.00*	
Operating: Special Needs	EDN		205,691	206,639	412,330
	EDN		3,946A		3,946A
Wailuku Elementary	EDN	105-194			
Operating: Basic Needs			32.00*	32.00*	
Operating: Special Needs	EDN		610,331	612,030	1,222,361
	EDN		7,369A		7,369A
Windward District Schools					
Ahuimanu Elementary	EDN	105-195			
Operating: Basic Needs			16.00*	16.00*	
Operating: Special Needs	EDN		296,620	300,353	596,973
	EDN		4,597A		4,597A
Aikahi Elementary	EDN	105-196			
Operating: Basic Needs			23.00*	23.00*	
Operating: Special Needs	EDN		455,014	457,492	912,506
	EDN		5,696A		5,696A
Castle High	EDN	105-197			
Operating: Basic Needs			97.00*	97.00*	
Operating: Special Needs	EDN		1,848,393	1,855,964	3,704,357
	EDN		19,717A		19,717A
Enchanted Lake Elementary	EDN	105-198			
Operating: Basic Needs			24.00*	24.00*	
Operating: Special Needs	EDN		441,559	443,394	884,953
	EDN		6,235A		6,235A

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		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
	Hauula Elementary	EDN	105-199							
	Operating: Basic Needs			EDN	18.00*		18.00*			
	Operating: Special Needs			EDN	312,086		313,316		625,402	
					4,954A				4,954A	
	Heeia Elementary	EDN	105-200							
	Operating: Basic Needs			EDN	26.00*		26.00*			
	Operating: Special Needs			EDN	486,853		489,127		975,980	
					6,354A				6,354A	
	Kaaawa Elementary	EDN	105-201							
	Operating: Basic Needs			EDN	4.00*		4.00*			
	Operating: Special Needs			EDN	80,189		80,578		160,767	
					2,756A				2,756A	
	Kaelepulu Elementary	EDN	105-202							
	Operating: Basic Needs			EDN	7.00*		7.00*			
	Operating: Special Needs			EDN	128,786		129,985		258,771	
					3,540A				3,540A	
	Kahaluu Elementary	EDN	105-203							
	Operating: Basic Needs			EDN	19.00*		19.00*			
	Operating: Special Needs			EDN	366,812		367,919		734,731	
					5,164A				5,164A	
	Kahuku High & Elementary & Sunset Beach Annex	EDN	105-204							
	Operating: Basic Needs			EDN	58.00*		58.00*			
	Operating: Special Needs			EDN	1,021,452		1,027,892		2,049,344	
					12,297A				12,297A	
	Kailua Elementary	EDN	105-205							
	Operating: Basic Needs			EDN	25.00*		25.00*			
	Operating: Special Needs			EDN	482,733		486,112		968,845	
					5,913A				5,913A	

Kailua High	EDN	105-206				
			75.00*	75.00*		
Operating: Basic Needs		EDN	1,359,138	1,355,111	2,714,249	
Operating: Special Needs		EDN	14,929A		14,929A	
Kailua Intermediate	EDN	105-207				
			53.00*	53.00*		
Operating: Basic Needs		EDN	966,663	969,289	1,935,952	
Operating: Special Needs		EDN	10,071A		10,071A	
Kainalu Elementary	EDN	105-208				
			25.00*	25.00*		
Operating: Basic Needs		EDN	511,064	513,039	1,024,103	
Operating: Special Needs		EDN	6,123A		6,123A	
Kalaheo High & Intermediate	EDN	105-209				
			64.00*	64.00*		
Operating: Basic Needs		EDN	1,108,998	1,092,804	2,201,802	
Operating: Special Needs		EDN	12,717A		12,717A	
Kaneohe Elementary	EDN	105-210				
			23.00*	23.00*		
Operating: Basic Needs		EDN	469,732	471,429	941,161	
Operating: Special Needs		EDN	5,626A		5,626A	
Kapunahala Elementary	EDN	105-211				
			21.00*	21.00*		
Operating: Basic Needs		EDN	426,645	426,472	853,117	
Operating: Special Needs		EDN	5,150A		5,150A	
Keolu Elementary	EDN	105-212				
			21.00*	21.00*		
Operating: Basic Needs		EDN	423,005	424,153	847,158	
Operating: Special Needs		EDN	5,500A		5,500A	
King Intermediate	EDN	105-213				
			72.00*	72.00*		
Operating: Basic Needs		EDN	1,318,487	1,320,862	2,639,349	
Operating: Special Needs		EDN	13,851A		13,851A	
Laie Elementary	EDN	105-214				
			25.00*	25.00*		
Operating: Basic Needs		EDN	423,337	425,298	848,635	
Operating: Special Needs		EDN	6,424A		6,424A	

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		Org.	No.		FY 1977-1978	C O D E	FY 1978-1979	C O D E	
	Lanikai Elementary	EDN	105-215		8.00*		8.00*		
	Operating: Basic Needs			EDN	150,566		152,014		302,580
	Operating: Special Needs			EDN	3,428A				3,428A
	Maunawili Elementary	EDN	105-216		21.00*		21.00*		
	Operating: Basic Needs			EDN	445,639		446,998		892,637
	Operating: Special Needs			EDN	5,416A				5,416A
	Mokapu Elementary	EDN	105-217		39.00*		39.00*		
	Operating: Basic Needs			EDN	718,131		724,087		1,442,218
	Operating: Special Needs			EDN	9,210A				9,210A
	Benjamin Parker Elementary	EDN	105-218		35.00*		35.00*		
	Operating: Basic Needs			EDN	703,241		706,843		1,410,084
	Operating: Special Needs			EDN	7,768A				7,768A
	Pope Elementary	EDN	105-219		19.00*		19.00*		
	Operating: Basic Needs			EDN	324,488		325,507		649,995
	Operating: Special Needs			EDN	5,017A				5,017A
	Puohala Elementary	EDN	105-220		20.00*		20.00*		
	Operating: Basic Needs			EDN	406,460		407,164		813,624
	Operating: Special Needs			EDN	5,381A				5,381A
	Waiahole Elementary	EDN	105-221		9.00*		9.00*		
	Operating: Basic Needs			EDN	155,724		156,165		311,889
	Operating: Special Needs			EDN	3,568A				3,568A

2	Waimanalo Elementary & Intermediate	EDN 105-222		33.00*	33.00*	
	Operating: Basic Needs		EDN	598,543	599,254	1,197,797
	Operating: Special Needs		EDN	6,886A		6,886A
	Regular Instructional Facilities	EDN 105-223				
	Investment: Capital		AGS	17,527,000C	12,456,000C	29,983,000C
	Other Regular Instruction Programs	EDN 106				
	Operating		EDN	538.50*	538.50*	
			EDN	11,163,523A	11,382,631A	22,546,154A
			EDN	10,850B	11,772B	22,622B
			EDN	58,527N	63,779N	122,306N
Provided, That EDN 106 Is Comprised Of EDN 106-1 Through EDN 106-11.						
	Environmental Education	EDN 106-1				
	Operating		EDN	2.50*	2.50*	
	Hawaii English Program	EDN 106-2		224,205A	243,567A	467,772A
	Operating		EDN	38.00*	38.00*	
	Artmobile	EDN 106-3		1,633,076A	1,667,866A	3,300,942A
	Operating		EDN	48,846A	52,859A	101,705A
	Artists-In-The-Schools	EDN 106-4				
	Operating		EDN	45,238A	53,608A	98,846A
	ROTC	EDN 106-5				
	Operating		EDN	10.00*	10.00*	
	Driver Education	EDN 106-6		145,550A	145,550A	291,100A
	Operating		EDN	208,837A	213,375A	422,212A
	Lahainaluna Boarding Dept.	EDN 106-7				
			EDN	6.00*	6.00*	
			EDN	173,257A	172,140A	345,397A
			EDN	10,850B	11,772B	22,622B

		Program ID			APPROPRIATIONS					
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	Intensive Language Operating	EDN	106-8	EDN	16,275A		17,658A		33,933A	
	Leeward Reading Program Operating	EDN	106-9	EDN	350,631A		360,089A		710,720A	
	Right To Read Operating	EDN	106-10	EDN	58,527N		63,779N		122,306N	
	Instructional Resources Augmentation/3 On 2	EDN	106-11		482.00*		482.00*			
	Operating			EDN	8,317,608A		8,455,919A		16,773,527A	
3	Exceptional Child Program	EDN	107		690.00*		690.00*			
	Operating			EDN	11,397,314A		11,661,005A		23,058,319A	
				EDN	502,795N		502,795N		1,005,590N	
	Compensatory Education	EDN	108		108.00*		108.00*			
	Operating			EDN	3,261,213A		3,315,976A		6,577,189A	
				EDN	9,529,857N		9,920,437N		19,450,294N	
	Instructional Administration And Support									
5	School Administration	EDN	203		822.00*		822.00*			
	Operating			EDN	14,628,582A		14,679,670A		29,308,252A	
	Investment: Capital			AGS			1,005,000C		1,005,000C	
6	Instructional Media	EDN	204		293.50*		293.50*			
	Operating			EDN	6,622,712A		6,712,301A		13,335,013A	
				EDN	588,440N		626,152N		1,214,592N	
	Investment: Capital			AGS	1,462,000C		1,508,000C		2,970,000C	

7	Instructional Development	EDN 205		74.00*	74.00*	
	Operating		EDN	2,555,198A	2,606,367A	5,161,565A
			EDN	1,130,844N	1,137,892N	2,268,736N
8	Counseling	EDN 206		258.50*	223.50*	
	Operating		EDN	4,670,923A	4,355,296A	9,026,219A
9	Student Activities	EDN 207				
	Operating		EDN	636,658A	560,877A	1,197,535A
	Investment: Capital		AGS	43,000C	582,000C	625,000C
10	Psychological & School Social Work Services	EDN 208		133.00*	133.00*	
	Operating		EDN	2,703,598A	2,435,981A	5,139,579A
	Institutional Administration and Support					
11	State Administration	EDN 303		252.50*	202.00*	
	Operating		EDN	5,200,747A	5,293,501A	10,494,248A
			EDN	592,731N	647,016N	1,239,747N
12	District Administration	EDN 304		182.00*	182.00*	
	Operating		EDN	7,925,665A	7,994,580A	15,920,245A
	Investment: Capital		AGS	300,000C	C	300,000C
13	School Food Services	EDN 305		198.50*	198.50*	
	Operating		EDN	7,200,378A	7,559,531A	14,759,909A
				712.50*	712.50*	
			EDN	13,604,425B	14,477,004B	28,081,429B
			EDN	84,302N	83,884N	168,186N
	Investment: Capital		AGS	1,073,000C	863,000C	1,936,000C
14	Safety and Security Services	EDN 306				
	Operating		EDN	533,470A	549,677A	1,083,147A
15	Physical Plant Operations & Maintenance—	EDN 307		976.60*	976.60*	
	Operating		EDN	14,431,161A	14,920,803A	29,351,964A
	Investment: Capital		AGS	42,000C	304,000C	346,000C

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					C O D E	C O D E	C O D E
16	Physical Plant Operations & Maintenance—	AGS	807				
	Operating			AGS	218.00* 8,464,377A	218.00* 8,780,571A	17,244,948A
17	Student Transportation	AGS	808				
	Operating			AGS	6.00* 8,020,642A	6.00* 8,884,309A	16,904,951A
18	Teacher Housing	SOC	807				
	Operating			SOC	5.50* 122,414B	5.50* 127,504B	249,918B
19	Public Service Adult Education	EDN	406				
	Operating			EDN	22.00* 1,453,706A	22.00* 1,462,662A	2,916,368A
				EDN	1.00* 816,256B	1.00* 881,599B	1,697,855B
				EDN	1.00* 362,357N	1.00* 368,359N	730,716N
20	Public Libraries	EDN	407				
	Operating			EDN	425.45* 6,881,388A	425.45* 7,017,109A	13,898,497A
	Investment: Capital			AGS	394,388N C	394,388N 1,000,000C	788,776N 1,000,000C
HIGHER EDUCATION							
University of Hawaii, Manoa							
21	Instruction—UOH, Manoa	UOH	101				
	Operating			UOH	1,514.04* 36,154,951A 21.00*	1,514.04* 37,466,699A 21.00*	73,621,650A

			UOH	3,352,128B 7.15*	3,447,987B 7.15*	6,800,115B
	Investment: Capital		UOH	721,276N	721,276N	1,442,552N
			AGS	1,272,000C	13,106,000C	14,378,000C
22	Organized Research—UOH, Manoa	UOH 102		415.57*	415.57*	
	Operating		UOH	10,735,165A	11,152,722A	21,887,887A
			UOH	56,500B 34.42*	65,075B 34.42*	121,575B
			UOH	963,620N	1,032,505N	1,996,125N
	Investment: Capital		UOH	165,000W	170,000W	335,000W
			AGS	1,585,000C	1,188,000C	2,773,000C
23	Public Service—UOH, Manoa	UOH 103		90.51*	90.51*	
	Operating		UOH	2,278,206A 8.00*	2,357,448A 8.00*	4,635,654A
			UOH	993,675B 43.64*	1,073,718B 43.64*	2,067,393B
			UOH	939,288N	978,419N	1,917,707N
			UOH	59,000W	65,000W	124,000W
24	Academic Support—UOH, Manoa	UOH 104		394.77*	394.77*	
	Operating		UOH	8,533,206A 10.00*	8,840,361A 10.00*	17,373,567A
			UOH	541,510B 6.00*	562,819B 6.00*	1,104,329B
			UOH	545,356W	572,385W	1,117,741W
	Investment: Capital		AGS	33,000C	300,000C	333,000C
25	Student Services—UOH, Manoa	UOH 105		103.75*	103.75*	
	Operating		UOH	2,254,379A	2,331,538A	4,585,917A
			UOH	192,410B	199,296B	391,706B
			UOH	621,485N 135.00*	621,485N 140.00*	1,242,970N
			UOH	12,356,422W	12,940,805W	25,297,227W

Item No.	Program	Program ID		APPROPRIATIONS				
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E FY 1978-1979	Total Biennium 1977-1979	C O D E
26	Institutional Support— UOH, Manoa	UOH	106		378.50*	378.50*		
	Operating			UOH	9,075,598A	9,342,252A	18,417,850A	
				UOH	12.00*	12.00*		
				UOH	457,899B	469,656B	927,555B	
				UOH	6.00*	6.00*		
	Investment: Capital			UOH	1,475,559W	1,519,593W	2,995,152W	
	University of Hawaii, Hilo			AGS	1,450,000C	3,300,000C	4,750,000C	
27	Instruction— UOH, Hilo	UOH	211		185.50*	185.50*		
	Operating			UOH	3,952,346A	3,987,955A	7,940,301A	
				UOH	206,000B	217,000B	423,000B	
				UOH	160,000N	160,000N	320,000N	
				UOH	130,000W	130,000W	260,000W	
	Investment: Capital			AGS	300,000C	650,000C	950,000C	
28	Public Service— UOH, Hilo	UOH	213					
	Operating			UOH	30,150A	30,350A	60,500A	
				UOH	40,000B	45,000B	85,000B	
29	Academic Support— UOH, Hilo	UOH	214		42.00*	42.00*		
	Operating			UOH	961,801A	1,017,385A	1,979,186A	
				UOH	7.00*	7.00*		
				UOH	95,000B	102,000B	197,000B	
	Investment: Capital			AGS	C	2,943,000C	2,943,000C	
30	Student Services— UOH, Hilo	UOH	215		20.00*	20.00*		
	Operating			UOH	546,151A	552,286A	1,098,437A	
				UOH	94,000N	94,000N	188,000N	

				UOH	6.00* 183,813W	6.00* 199,974W	383,787W
31	Institutional Support—UOH, Hilo	UOH	216				
	Operating			UOH	35.00* 779,083A	35.00* 796,529A	1,575,612A
	Investment: Capital			UOH	8,500B	9,000B	17,500B
				AGS	250,000C	150,000C	400,000C
	Honolulu Community College						
32	Instruction—Honolulu Community College	UOH	301				
	Operating			UOH	124.00* 2,776,914A	124.00* 2,855,399A	5,632,313A
				UOH	142,000B	151,000B	293,000B
	Investment: Capital			UOH	100,000N	100,000N	200,000N
				AGS	C	406,000C	406,000C
33	Public Service—Honolulu Community Colle	UOH	302				
	Operating			UOH	9.00* 538,453A	9.00* 546,845A	1,085,298A
34	Academic Support—Honolulu Community Col	UOH	303				
	Operating			UOH	26.00* 422,194A	26.00* 434,436A	856,630A
35	Student Services—Honolulu Community Col	UOH	304				
	Operating			UOH	19.00* 350,481A	19.00* 371,158A	721,639A
				UOH	111,000N	111,000N	222,000N
				UOH	4,000X	4,000X	8,000X
36	Institutional Support—Honolulu CC	UOH	305				
	Operating			UOH	33.00* 811,457A	33.00* 747,868A	1,559,325A
				UOH	27,000B	30,000B	57,000B
	Investment: Capital			UOH	53,000W	59,000W	112,000W
				AGS	425,000C	C	425,000C
	Kapiolani Community College						
37	Instruction—Kapiolani Community College	UOH	311				
	Operating			UOH	106.00* 2,575,616A	106.00* 2,631,990A	5,207,606A

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		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	
				UOH	75,000N		75,000N		150,000N
					3.00*		3.00*		
				UOH	172,283W		179,921W		352,204W
38	Public Service—Kapiolani Community College	UOH	312						
	Operating			UOH	1.00*		1.00*		
					25,187A		25,636A		50,823A
39	Academic Support—Kapiolani Community College	UOH	313						
	Operating			UOH	15.00*		15.00*		
					363,122A		373,994A		737,116A
40	Student Services—Kapiolani Community College	UOH	314						
	Operating			UOH	16.00*		16.00*		
				UOH	310,453A		319,841A		630,294A
				UOH	137,000N		151,000N		288,000N
41	Institutional Support—Kapiolani CC	UOH	315						
	Operating			UOH	25.00*		25.00*		
				UOH	687,654A		679,808A		1,367,462A
				UOH	33,669W		34,932W		68,601W
	Investment: Capital			AGS	C		2,137,000C		2,137,000C
42	Leeward Community College Instruction—Leeward Community College	UOH	321						
	Operating			UOH	144.00*		144.00*		
				UOH	3,134,581A		3,240,417A		6,374,998A
				UOH	23,261B		24,451B		47,712B
				UOH	40,000N		40,000N		80,000N
					2.00*		2.00*		
				UOH	121,315W		121,610W		242,925W
	Investment: Capital			AGS	520,000C		100,000C		620,000C
43	Public Service—Leeward Community College	UOH	322						
	Operating			UOH	5.00*		5.00*		
					296,424A		307,854A		604,278A

			UOH	12,598B	12,588B	25,186B
44	Academic Support—Leeward Community Col	UOH 323				
	Operating		UOH	25.00*	25.00*	
				462,328A	477,331A	939,659A
45	Student Services—Leeward Community Col	UOH 324				
	Operating		UOH	29.00*	29.00*	
			UOH	539,283A	554,638A	1,093,921A
			UOH	100,000N	100,000N	200,000N
			UOH	3,296W	3,474W	6,770W
46	Institutional Support—Leeward CC	UOH 325				
	Operating		UOH	47.50*	47.50*	
				954,870A	944,003A	1,898,873A
47	Windward Community College Instruction—Windward Community College	UOH 331				
	Operating		UOH	41.00*	41.00*	
				900,065A	905,881A	1,805,946A
48	Public Service—Windward Community Col	UOH 332				
	Operating		UOH	1.00*	1.00*	
				23,711A	24,399A	48,110A
49	Academic Support—Windward CC	UOH 333				
	Operating		UOH	10.00*	10.00*	
				242,412A	256,603A	499,015A
50	Student Services—Windward Community Col	UOH 334				
	Operating		UOH	6.00*	6.00*	
			UOH	124,040A	129,071A	253,111A
			UOH	69,000N	69,000N	138,000N
51	Institutional Support—Windward CC	UOH 335				
	Operating		UOH	11.50*	11.50*	
				250,451A	250,812A	501,263A
			UOH	1.00*	1.00*	
				32,000B	35,000B	67,000B
52	Maui Community College Instruction—Maui Community College	UOH 501				
				61.50*	61.50*	

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		Org.	No.	Exp. Agy.	FY 1977-1978	Total Biennium 1977-1979
	Operating			UOH	1,319,435A	2,676,337A
				UOH	50,000N	100,000N
				UOH	2,000W	4,000W
53	Public Service—Maui Community College	UOH	502			
	Operating			UOH	.50*	.50*
				UOH	44,491A	89,611A
				UOH	6,000B	12,000B
54	Academic Support—Maui Community Col	UOH	503			
	Operating			UOH	11.00*	11.00*
					233,802A	478,100A
55	Student Services—Maui Community College	UOH	504			
	Operating			UOH	8.50*	8.50*
				UOH	172,631A	352,006A
				UOH	.50*	.50*
				UOH	18,411B	37,666B
				UOH	61,000N	129,000N
	Investment: Capital			AGS	750,000C	750,000C
56	Institutional Support—Maui CC	UOH	505			
	Operating			UOH	18.00*	18.00*
				UOH	414,044A	824,483A
				UOH	3,000B	6,000B
				UOH	3.00*	3.00*
				UOH	73,658W	151,078W
	Investment: Capital			AGS	350,000C	450,000C
57	Kauai Community College					
	Instruction—Kauai Community College	UOH	601			
	Operating			UOH	46.00*	46.00*
				UOH	941,572A	1,779,688A
				UOH	7,000B	14,000B

	Investment: Capital		UOH AGS	30,000N 400,000C	30,000N C	60,000N 400,000C
58	Public Service—Kauai Community College	UOH	602			
	Operating		UOH	.50* 16,340A	.50* 13,658A	29,998A
59	Academic Support—Kauai CC	UOH	603			
	Operating		UOH	10.50* 243,209A	10.50* 250,528A	493,737A
60	Student Services—Kauai CC	UOH	604			
	Operating		UOH UOH	8.00* 156,411A 36,000N	8.00* 160,954A 36,000N	317,365A 72,000N
61	Institutional Support—Kauai CC	UOH	605			
	Operating		UOH UOH	24.50* 539,005A 4,000B	24.50* 519,706A 4,000B	1,058,711A 8,000B
	Investment: Capital		AGS	500,000C	C	500,000C
62	West Oahu College Instruction—West Oahu College	UOH	701			
	Operating		UOH	7.00* 220,555A	7.00* 170,885A	391,440A
63	Academic Support—West Oahu College	UOH	704			
	Operating		UOH	3.00* 76,343A	3.00* 77,801A	154,144A
64	Student Services—West Oahu College	UOH	705			
	Operating		UOH	1.00* 42,782A	1.00* 41,582A	84,364A
65	Institutional Support—West Oahu College	UOH	706			
	Operating		UOH	4.00* 187,345A	4.00* 194,989A	382,334A
66	Higher Education State-Wide Support Academic Support—UOH, System-Wide Sup	UOH	901			
	Operating		UOH UOH	79.99* 1,771,505A 550,000T	79.00* 1,827,677A 600,000T	3,599,182A 1,150,000T

Program ID				APPROPRIATIONS			
Item No.	Program	Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
67	Student Services—UOH, System-Wide Sup	UOH	902		4.00*	4.00*	
	Operating			UOH	587,554A	503,086A	1,090,640A
68	Institutional Sppt—UOH, System-Wide Sppt	UOH	903		176.75*	176.75*	
	Operating			UOH	3,738,574A	3,872,228A	7,610,802A
69	Vocational Education, Statewide Coordin	UOH	904		7.00*	7.00*	
	Operating			UOH	103,991A	107,826A	211,817A
				UOH	6.00*	6.00*	
				UOH	310,012N	320,096N	630,108N
70	Community College Systemwide Support	UOH	906		28.75*	28.75*	
	Operating			UOH	748,488A	775,152A	1,523,640A
				UOH	148.50*	148.50*	
				UOH	3,253,437N	3,425,188N	6,678,625N
				UOH	75,000W	75,000W	150,000W
71	Western Interstate Commission for Higher Operating	GOV	807	GOV	870,200A	870,200A	1,740,400A
H. CULTURE AND RECREATION							
CULTURAL ACTIVITIES							
Collections, Historical Sites and Studies							
1	Cultural History	BUF	802		2.00*	2.00*	
	Operating			BUF	187,471A	189,804A	377,275A
				BUF	50,000N	50,000N	100,000N
				BUF	20,000X	20,000X	40,000X
2	Hawaii Public Broadcasting	REG	701	29.00*	29.00*	29.00*	

	Operating		REG	798,569A	809,959A	1,608,528A
			REG	504,010W	490,890W	994,900W
	Investment: Capital		AGS	303,000C	C	303,000C
			AGS	534,000N	N	534,000N
3	LNR — Historical & Archaeological Places	LNR	801			
				20.10*	20.10*	
	Operating		LNR	439,846A	239,956A	679,802A
	Investment: Capital		LNR	2,155,000C	2,960,000C	5,115,000C
4	DEF — Historical Places	DEF	808			
	Operating		DEF	5,860A	5,860A	11,720A
5	Aquaria	UOH	881			
				11.00*	11.00*	
	Operating		UOH	179,966A	182,390A	362,356A
6	Other Natural Features	LNR	803			
				9.15*	9.15*	
	Operating		LNR	150,996A	110,681A	261,677A
	Investment: Capital		LNR	160,000C	360,000C	520,000C
	Cultural and Artistic Events					
7	Performing & Visual Arts Events	BUF	881			
				7.00*	7.00*	
	Operating		BUF	434,195A	454,768A	888,963A
			BUF	321,400N	322,400N	643,800N
			BUF	68,000R	70,000R	138,000R
8	Ethnic Group Presentations	AGS	818			
	Operating		AGS	37,750A	37,750A	75,500A
			AGS	1,000B	1,000B	2,000B
	RECREATIONAL ACTIVITIES					
	Outdoor Activities					
9	Inland-Based Activities	LNR	804			
				96.45*	96.45*	
	Operating		LNR	1,546,233A	1,449,817A	2,996,050A
			LNR	104,000B	104,000B	208,000B
			LNR	152,188N	154,074N	306,262N
	Investment: Capital		LNR	1,757,000C	2,269,000C	4,026,000C

Item No.	Program	Program ID		APPROPRIATIONS		
		Org. No.	Exp. Agy.	FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
				C O D E	C O D E	C O D E
10	DOT—Ocean-Based Activities	TRN 801		38.50*	38.50*	
	Operating		TRN	1,843,491B	1,871,361B	3,714,852B
	Investment: Capital		TRN	850,000C	1,358,000C	2,208,000C
			TRN	150,000D	1,366,000D	1,516,000D
11	LNR—Ocean-Based Activities	LNR 805		56.10*	56.10*	
	Operating		LNR	816,935A	788,847A	1,605,782A
			LNR	55,000N	56,000N	111,000N
	Investment: Capital		LNR	3,025,000C	3,120,000C	6,145,000C
			LNR	230,000N	N	230,000N
12	Spectator Events and Shows	BUF 889				
	Operating		BUF	437,435A	407,391A	844,826A
				34.00*	34.00*	
			BUF	889,740B	964,302B	1,854,042B
	Investment: Capital		AGS	650,000C	611,000C	1,261,000C
OVERALL PROGRAM SUPPORT FOR CULTURE & RE						
13	Ped—Planng & Analysis for Culture & Rec	PED 808		3.00*	3.00*	
	Operating		PED	49,357A	51,621A	100,978A
			PED	3,000,000N	3,000,000N	6,000,000N
14	LNR—General Admin for Culture and Rec	LNR 809		6.95*	6.95*	
	Operating		LNR	107,674A	107,831A	215,505A
	Investment: Capital		LNR	150,000C	100,000C	250,000C

**I. PUBLIC SAFETY  
SAFETY FROM CRIMINAL ACTIONS**

1	Intake Service Centers	GOV	894			
	Operating			20.52*	26.64*	
		GOV		208,057A	612,363A	820,420A
				8.98*	7.36*	
		GOV		392,434N	188,240N	580,674N
	Confinement					
2	Juvenile Correctional Facilities	SOC	401			
	Operating			69.00*	75.00*	
		SOC		1,527,354A	1,649,970A	3,177,324A
3	Adult Honor Camps	SOC	403			
	Operating			36.00*	36.00*	
		SOC		748,447A	798,312A	1,546,759A
4	In-Community Facilities	SOC	404			
	Operating			15.00*	15.00*	
		SOC		279,058A	287,800A	566,858A
5	Hawaii Community Corrections Center	SOC	405			
	Operating			29.00*	29.00*	
		SOC		384,668A	410,095A	794,763A
6	Maui Community Corrections Center	SOC	406			
	Operating			22.00*	22.00*	
		SOC		400,637A	428,369A	829,006A
7	Kauai Community Corrections Center	SOC	408			
	Operating			18.50*	18.50*	
		SOC		270,390A	288,554A	558,944A
8	Social Rehabilitation of Confined Adults	UOH	859			
	Operating			7.00*	7.00*	
		UOH		154,768A	161,245A	316,013A
		UOH		34,027N	34,027N	68,054N
		UOH		2,000W	2,000W	4,000W
9	Interim Oahu Correctional Facilities	SOC	420			
	Operating			302.80*	356.80*	
		SOC		5,268,870A	6,505,855A	11,774,725A
		SOC		50,000B	25,000B	75,000B

Item No.	Program	Program ID			APPROPRIATIONS			
		Org.	No.	Exp. Agy.	FY 1977-1978	C O D E  FY 1978-1979	Total Biennium 1977-1979	C O D E
10	Parole Supervision and Counseling Adult Parole Determinations	SOC	411		2.00* 64,046A	2.00* 64,046A	128,092A	
11	Operating Adult Parole Supervision and Counseling	SOC	413	SOC	19.50* 284,691A	19.50* 293,571A	578,262A	
12	Operating Criminal Injuries Compensation	SOC	414	SOC	3.00* 56,944A	3.00* 61,290A	118,234A	
13	General Support—Criminal Action Criminal Data and Crime Statistics	ATG	191		9.00* 127,456A	9.00* 132,578A	260,034A	
14	Operating Criminal Justice Planning & Prg Implementat	GOV	893	ATG	4.16* 285,675A	4.16* 267,394A	553,069A	
	Operating			GOV	7.84* 3,304,557N	7.84* 2,840,557N	6,145,114N	
15	General Adm—Confinement & Parole	SOC	493		14.00* 335,406A	14.00* 276,001A	611,407A	
16	Operating SAFETY FROM PHYSICAL DISASTERS Prevention of Natural Disasters	LNR	810	SOC	3.00* 82,049A	3.00* 85,080A	167,129A	
17	Operating Amelioration of Physical Disasters	DEF	110	LNR	103.00* 1,643,114A	103.00* 1,680,244A	3,323,358A	

				22.00*	22.00*	
	Investment: Capital		DEF	684,373N	696,150N	1,380,523N
			AGS	439,000C	66,000C	505,000C
			AGS	454,000N	66,000N	520,000N
18	Fire Marshall Services	REG	891			
	Operating		REG	2.00*	2.00*	
				38,326A	38,365A	76,691A
<b>J. INDIVIDUAL RIGHTS</b>						
<b>PROTECTION OF THE CONSUMER</b>						
1	Testing & Certification of Consumer Good	AGR	810			
	Operating		AGR	28.00*	28.00*	
				444,339A	451,446A	895,785A
			AGR	28.00*	28.00*	
				539,418N	547,833N	1,087,251N
2	Regulation of Services Communication, Utilities & Transportation	REG	103			
	Operating		REG	46.00*	46.00*	
				721,480A	750,042A	1,471,522A
			REG	5.00*	5.00*	
				165,923X	159,605X	325,528X
3	Banking Services	REG	104			
	Operating		REG	24.00*	24.00*	
				439,524A	448,935A	888,459A
4	Insurance Services	REG	106			
	Operating		REG	30.00*	30.00*	
				527,346A	528,557A	1,055,903A
5	Professional, Vocational & Personal Svcs	REG	105			
	Operating		REG	49.00*	49.00*	
				970,733A	972,311A	1,943,044A
			REG	1.00*	1.00*	
				41,196X	42,856X	84,052X
6	Enforcement of Fair Business Practices Business Registration	REG	111			
	Operating		REG	12.00*	12.00*	
				159,257A	162,986A	322,243A

Item No.	Program	Program ID		APPROPRIATIONS		
		Org.	No.	FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
			Exp. Agy.	C O D E	C O D E	C O D E
7	Weights & Measures	AGR	812			
	Operating		AGR	20.00*	20.00*	
			AGR	310,207A	313,720A	623,927A
				112,492W	85,292W	197,784W
8	Offc of Consumer Prot—Adv & Terms of S	GOV	110			
	Operating		GOV	27.00*	27.00*	
				486,334A	503,852A	990,186A
9	General Support—Protection of the Consum	REG	191			
	Operating		REG	29.00*	29.00*	
				582,067A	603,777A	1,185,844A
	LEGAL & JUDICIAL PROTECTION OF RIGHTS					
10	Legal Assistance in Criminal Actions	GOV	821			
	Operating		GOV	57.00*	57.00*	
				1,319,865A	1,327,398A	2,647,263A
11	Conveyances and Recordings	LNR	111			
	Operating		LNR	43.00*	43.00*	
				611,772A	617,513A	1,229,285A
12	Commission on the Status of Women	BUF	888			
	Operating		BUF	2.00*	2.00*	
				31,233A	32,597A	63,830A
	<b>K. GOVERNMENT-WIDE SUPPORT</b>					
	<b>EXEC DIRECTN, COORD, &amp; POLICY DEVELOPMEN</b>					
1	Office of the Governor	GOV	100			
	Operating		GOV	41.00*	41.00*	
				1,178,363A	1,245,599A	2,423,962A
	Investment: Capital		GOV	3,000,000C	3,000,000C	6,000,000C

2	Office of the Lieutenant Governor	LTG	100		23.00*	23.00*	
	Operating			LTG	714,994A	1,564,471A	2,279,465A
3	Policy Development and Coordination Prg Planning, Analysis, Budgeting & Coord	BUF	101		66.00*	66.00*	
	Operating			BUF	1,547,619A	1,590,405A	3,138,024A
				BUF	21,000B	32,000B	53,000B
4	Land Use, Statewide Plan and Coordination	PED	103		37.00*	38.00*	
	Operating			PED	1,294,573A	1,321,164A	2,615,737A
					2.00*	2.00*	
	Investment: Capital			PED	2,000,000N	2,000,000N	4,000,000N
				PED	60,000C	C	60,000C
				PED	60,000N	N	60,000N
5	Oth Policy Development & Coordination—	GOV	102		16.00*	16.00*	
	Operating			GOV	652,821A	698,800A	1,351,621A
	FISCAL MANAGEMENT						
	Revenue Collection						
6	Property Tax Assessment	TAX	101		115.67*	115.67*	
	Operating			TAX	1,755,328A	1,768,927A	3,524,255A
7	Income Assessment and Audit	TAX	102		157.67*	157.67*	
	Operating			TAX	2,405,875A	2,442,250A	4,848,125A
8	Tax Collection	TAX	103		78.66*	78.66*	
	Operating			TAX	1,128,105A	1,126,957A	2,255,062A
9	Supporting Services—Revenue Collection	TAX	107		78.00*	78.00*	
	Operating			TAX	2,285,063A	1,988,490A	4,273,553A
	Fiscal Procedures and Control						
10	Acct System Development & Maintenance	AGS	101		8.00*	8.00*	

Program ID				APPROPRIATIONS			
Item No.	Program	Org.	No.	Exp. Agy.	FY 1977-1978	FY 1978-1979	Total Biennium 1977-1979
	Operating			AGS	160,174A	164,722A	324,896A
11	Expenditure Examination	AGS	102		21.00*	21.00*	
	Operating			AGS	380,440A	392,581A	773,021A
12	Recording and Reporting	AGS	103		12.00*	12.00*	
	Operating			AGS	221,591A	228,510A	450,101A
13	Internal Post Audit	AGS	104		18.00*	18.00*	
	Operating			AGS	547,553A	530,863A	1,078,416A
14	Cash and Debt Management	BUF	110		16.00*	16.00*	
	Operating			BUF	118,444,501A	143,514,678A	261,959,179A
				BUF	567,353B	410,135B	977,488B
				BUF	27,500U	27,500U	55,000U
15	GENERAL SERVICES						
	Legal Services	ATG	100		73.00*	73.00*	
	Operating			ATG	2,033,356A	1,885,191A	3,918,547A
					20.00*	20.00*	
				ATG	437,742U	468,236U	905,978U
16	Electronic Data Processing Services	BUF	131		200.20*	205.20*	
	Operating			BUF	4,026,216A	4,481,476A	8,507,692A
					16.80*	16.80*	
				BUF	1,060,000U	1,065,000U	2,125,000U
17	Records Management	AGS	111		23.00*	23.00*	
	Operating			AGS	278,561A	292,405A	570,966A
18	Personnel Services						
	Work Force Attr. Select, Class & Effect	PER	102		70.00*	70.00*	

	Operating		PER	11.00*	11.00*	
	Employee Fringe Benefit Administration			315,840A	322,415A	638,255A
20	Retirement	BUF	141			
	Operating			21.95*	21.95*	
		BUF		66,586,317A	70,189,103A	136,775,420A
				8.05*	8.05*	
		BUF		196,872S	192,305S	389,177S
21	Group Life Insurance, Med, Hosp & Dntl Bn	BUF	142			
	Operating			10.00*	10.00*	
		BUF		12,038,067A	13,269,510A	25,307,577A
		BUF		6,149,390S	6,909,870S	13,059,260S
	Property Management					
22	Public Lands Management	LNR	101			
	Operating			34.00*	34.00*	
	Investment: Capital	LNR		534,359A	545,178A	1,079,537A
		LNR		70,000C	2,500,000C	2,570,000C
		LNR		1,560,000D	D	1,560,000D
23	Insurance Management	AGS	203			
	Operating			AGS		
		AGS		1,575,497A	1,842,530A	3,418,027A
		AGS		381,900U	423,308U	805,208U
24	Land Survey	AGS	211			
	Operating			30.00*	30.00*	
		AGS		503,710A	510,454A	1,014,164A
	Facilities Construction and Maintenance					
25	Construction	AGS	221			
	Operating			20.00*	20.00*	
	Investment: Capital	AGS		367,274A	370,874A	738,148A
		AGS		9,195,000C	10,234,000C	19,429,000C
		AGS		2,464,000D	3,022,000D	5,486,000D
26	Custodial Services	AGS	231			
	Operating			141.50*	143.50*	
		AGS		2,992,381A	3,064,161A	6,056,542A
		AGS		194,000U	204,000U	398,000U

		Program ID			APPROPRIATIONS					
Item No.	Program	Org.	No.	Exp. Agy.	FY 1977-1978	C O D E	FY 1978-1979	C O D E	Total Biennium 1977-1979	C O D E
27	Grounds Maintenance	AGS	232							
	Operating			AGS	36.00*		37.00*			
					332,547A		341,968A		674,515A	
28	Building Repairs and Alterations	AGS	233							
	Operating			AGS	23.00*		23.00*			
					613,751A		634,365A		1,248,116A	
29	Purchasing and Supplies									
	Central Purchasing	AGS	240							
	Operating			AGS	14.00*		14.00*			
				AGS	192,423A		197,588A		390,011A	
					17,100W		18,100W		35,200W	
30	Surplus Property Management	AGS	244							
	Operating			AGS	7.00*		7.00*			
					133,657W		135,400W		269,057W	
31	Motor Pool	AGS	251							
	Operating			AGS	8.50*		8.50*			
					278,341W		289,931W		568,272W	
32	Parking Control	AGS	252							
	Operating			AGS	12.50*		12.50*			
					319,537W		326,180W		645,717W	
33	Communication	AGS	263							
	Operating			AGS	14.00*		14.00*			
				AGS	969,397A		1,000,421A		1,969,818A	
					532,800U		551,400U		1,084,200U	
34	Capitol Building Security	ATG	801							
	Operating			ATG	36.00*		36.00*			
					488,336A		505,569A		993,905A	
35	Other State Buildings Security	AGS	301							
					10.00*		10.00*			

	Operating		AGS	95,935A	97,447A	193,382A
36	Genrl Adm Svcs—Accounting & General Sv	AGS	901			
				38.00*	38.00*	
	Operating		AGS	721,732A	683,056A	1,404,788A
	Subsidies to Counties					
37	Grants in Aid to Counties	SUB	101			
	Operating		BUF	25,563,640A	19,447,551A	45,011,191A

### **PART III. PROGRAM APPROPRIATION PROVISIONS**

#### **ECONOMIC DEVELOPMENT**

SECTION 4. Provided, that of the general fund appropriation for the Tourism Program (PED 113), the expending agency shall expend \$2,140,240 for fiscal year 1977-78 and \$2,233,240 for fiscal year 1978-79 for the purpose of tourism promotion by contract or contracts. Provided further, that of the amounts appropriated for tourism promotion by contract or contracts, \$200,000 shall be expended in each fiscal year to address the problem of low hotel occupancy rates experienced by the neighbor island counties from a research and promotional standpoint, including promotion of the neighbor islands as mass meetings destination areas. Funds allocated for the purpose of addressing the low occupancy problem shall not be used for the employment of additional permanent personnel positions.

SECTION 5. Provided, that in the Animal Quarantine Program (AGR 131), the department of agriculture shall adjust the fees for the quarantine of cats and dogs so that revenues collected from this source will equal 100 per cent of all costs, excluding amortization of capital improvement costs of the quarantine of cats and dogs program.

SECTION 6. Provided, that for the Water Development and Irrigation Services Program (LNR 141), the general fund appropriation shall be reduced to the extent that special fund revenues exceed the amounts authorized by this Act.

#### **TRANSPORTATION FACILITIES**

SECTION 7. Provided, that any provision of law to the contrary notwithstanding, expenditures from the airport special fund shall be exempt from chapter 37, Hawaii Revised Statutes; provided further, that any law or provision to the contrary notwithstanding, the governor shall maximise employment in the Air Transportation Facilities and Services Program by expending the appropriations authorized in the 1977-79 fiscal biennium for personal services at or near the appropriated level; provided further, that if expenditures at the appropriated level are not achieved due to positions not being filled, then the vacant positions and related costs shall not be included in the executive budget for the 1979-81 fiscal biennium.

SECTION 8. Provided, that of the appropriation for Water Transportation Facilities and Services Support (TRN 395), \$200,000 in each fiscal year shall be used for the payment of tort claims involving the Harbors Division, which are arbitrated, compromised, or settled for amounts not in excess of the deductible of the appropriate insurance policy of the Harbors Division, and for litigation purposes not provided for by the several insurance policies of the Harbors Division.

SECTION 9. Provided, that of the appropriation to the Overall Program Support for Transportation Facilities and Services Program (TRN 995), no more than \$15,000 for fiscal year 1977-78 shall be expended for State matching funds for the operations of the Oahu Metropolitan Planning Organization (OMPO); provided further, that the sum of \$1,420 appropriated to TRN 995

shall be expended to reimburse the City and County of Honolulu for planning work to be accomplished by the City.

SECTION 10. Provided, that the appropriation of \$600,000 in each fiscal year of the 1977-79 biennium for General Lyman Field Facilities and Services (TRN 111), and the appropriation of \$150,000 in each fiscal year of the 1977-79 biennium for Molokai Airport Facilities and Services (TRN 141) shall not be deemed an admission that such sum is legally due and payable by the Department of Transportation to the Department of Hawaiian Home Lands as the annual rental of areas 5 and 6, General Lyman Field and Molokai Airport, or a waiver of the right of the Department of Transportation to contest the requirement for the payment of any amount of money to the Department of Hawaiian Home Lands, or on the fair annual rental value of the lands, or the highest and best use of the lands. It is the intent of the legislature that the Department of Transportation move as expeditiously as possible to effect a land exchange of equal value with the Department of Hawaiian Home Lands for the parcels of land in question.

#### ENVIRONMENTAL PROTECTION

SECTION 11. Provided, that of the general fund appropriation for the Natural Physical Environment Program (LNR 906), \$17,500 for each fiscal year of the 1977-79 biennium shall be expended for the Youth Conservation Corp.

SECTION 12. Provided, that of the general fund appropriation for fiscal year 1977-78 for the Policy Development, Coordination and Analysis for Natural Physical Environment Program (GOV 401), \$92,500 shall be \*

, that the expenditures shall be at the sole discretion of the County of Hawaii, who shall select a consultant to conduct the study, specify the provisions of the contract, and regulate all aspects of the study.

#### HEALTH

SECTION 13. Provided, that if special funds in the amount authorized in Part II of this Act for the Department of Health County/State hospital system are not realized, then the difference between the amount authorized and the amount actually realized is hereby appropriated from the general fund to the Department of Health.

Provided further, that if special fund receipts exceed the authorization, the Department of Health may expend, from such excess receipts, up to \$611,122 in fiscal year 1977-78 and \$636,343 in fiscal year 1978-79 for staffing and equipment for the County/State hospital system and that the general fund appropriation shall be reduced to the extent of any additional excess receipts, except as provided elsewhere in this Act.

SECTION 14. Provided that the County/State hospital division shall monitor and evaluate management policies and practices at Molokai Hospital, including its financial status, and make recommendations for improvement to the hospital.

SECTION 15. Provided, that the appropriation for the Hawaii State Hospital Program (HTH 430) is intended for an average daily inpatient

\*provided to the County of Hawaii  
for a carrying capacity study;

population of 200 for each fiscal year of the fiscal biennium 1977-79.

**SECTION 16.** Provided, that the appropriation for the Waimano Training School and Hospital Program (HTH 511) is intended for an average daily ward population for 525 for fiscal year 1977-78 and 450 for fiscal year 1978-79.

**SECTION 17.** Provided, that of the special fund appropriation for the General Administration Program (HTH 907), \$254,706 in fiscal year 1977-78 and \$262,315 in fiscal year 1978-79 shall be for the administration of the County/State hospital system.

### **SOCIAL PROBLEMS**

**SECTION 18.** Provided, that of the appropriation for the Eligibility Determination Program (SOC 236), \$205,119 (19.00) for fiscal year 1977-78 and \$208,847 (19.00) for fiscal year 1978-79 shall be used to establish and fund positions in the Child Support Unit; provided further, that these new as well as existing positions in the Child Support Unit shall be transferred to recertification activities if any federal action results in the termination of the Child Support Unit under Title IV-D.

**SECTION 19.** Provided, that the appropriations for payments for indigents are intended for the following monthly average caseloads: Aid to Families with Dependent Children (SOC 201)-18,446 cases for fiscal year 1977-78 and 18,893 cases for fiscal year 1978-79; Child Welfare Foster Care (SOC 203) - 645 cases for fiscal year 1977-78 and 656 cases for fiscal year 1978-79; Supplemental Security Income Supplement (SOC 202) - 1,368 cases for fiscal year 1977-78 and 1,436 cases for fiscal year 1978-79; and General Assistance (SOC 204) - 7,416 cases for fiscal year 1977-78 and 7,658 cases for fiscal year 1978-79.

**SECTION 20.** Provided, that the appropriation for Health Care Payments (SOC 230) is intended for the following: inpatient care - 21,527 patients for fiscal year 1977-78 and 22,089 patients for fiscal year 1978-79; extended care facility - 5,485 patients for fiscal year 1977-78 and 5,514 patients for fiscal year 1978-79; and outpatient care - 695,278 patient visits for fiscal year 1977-78 and 720,362 patient visits for fiscal year 1978-79.

**SECTION 21.** Provided, that of the appropriation for the Health Care Payments Program (SOC 230), payments for cosmetic surgery for women who have had mastectomy are hereby authorized. Provided further, that no non-therapeutic sterilizations may be performed sooner than 14 days following the giving of informed consent, as defined in 45 C.F.R. Section 205.35.

**SECTION 22.** Provided, that of the general fund appropriation for Health Care Payments (SOC 230), \$3,777,750 in fiscal year 1977-78 and \$3,764,063 in fiscal year 1978-79 shall be used as the State's matching funds for medicaid reimbursements for Waimano Training School and Hospital (HTH 511).

**SECTION 23.** Provided, that of the general fund appropriation for the Planning, Program Development and Coordination of Services for Disadvantaged Program (GOV 860), \$15,799 in fiscal year 1977-78 and \$16,272 in fiscal year 1978-79 shall be used to fund a community service center manager for

Molokai Community for the overall management of the different service components of the Center, including coordination of Center activities island-wide and research in the area of improving the Common Index Record Keeping System in order to utilize the same information system as the other Community Service Centers.

SECTION 24. Provided, that of the nine positions appropriated to GOV 861, four positions shall be used to retain the four clerical staff employed by the program.

SECTION 25. Provided, that HMSA shall have the capability to retain on a weekly basis and shall store on weekly bases, standard demographic data by census tract to include but not be limited to the following: the number of public assistance recipients, cases and claims by payment categories (including Medical Categories I, II, and III); the number of recipients over 21, the number of recipients under 21, the average income payments, the number of recipients receiving food stamps, the total food stamps purchased, other miscellaneous social services expenditures, and medical payments by medical categories I, II, and III. Each summary shall break down eligible users from other users for each category. Also listed shall be the number of those with the other third party health insurance, including the amounts paid out by such third parties and by Medicaid. Automobile related cases are to be listed separately. For Income Maintenance, Food Stamp, and Medical categories, the average time a recipient remains in each program, and the number of those unemployed, and having part-time employment will be listed. The number of recipients living in public housing shall be noted and reflected separately.

Provided further, that HMSA shall have the capability to retain on a weekly basis and shall store on weekly bases, a comprehensive summary by census tract of the costs and types of medical treatments recipients broken down by age, and medical categories I, II, and III. Outpatient cases with more than five visits shall be noted separately, as well as the number of days of care per inpatient case. Payments and user/eligible medical summaries for those recipients under 21 years of age shall be segregated into ESDT and "other visitations". The age breakdown in the EPSDT analysis shall be in three-year intervals 0-3, 4-6, 7-9, 10-12, 13-15, 16-18, 19-21 and by medical categories I, II, and III.

Provided further, that the error rate of all medical claims paid out by the DSSH through HMSA shall conform to the tolerance levels specified in the Medicaid Eligibility Quality Control Semi-Annual Report dated January 1977.

Provided further, that monthly comprehensive summaries of the information required by this section will be provided by HMSA to DSSH beginning October 1977.

SECTION 26. Provided, that of the appropriation for the General Administration Program (SOC 904), \$34,342 for fiscal year 1977-78 shall be used for the establishment of two (2) temporary positions and that funds for salary and related costs for any of these positions not filled by the end of the first quarter of fiscal year 1977-78 shall lapse into the State general fund.

SECTION 27. Provided, that DSSH, EDPD and University of Hawaii shall

cooperatively develop data processing systems capable of producing three-dimensional graphic displays of caseload data by category of assistance and census tract, and shall prepare in consultation with the appropriate legislative committees appropriate computer-aided graphic displays for the caseload and program analysis.

**SECTION 28.** Provided, that during fiscal year 1977-78, 164.41 SCET or CETA positions shall be utilized for the purposes of recertification and eligibility review of income maintenance, medical and food stamp cases.

**SECTION 29.** Provided, that the Office of the Legislative Auditor shall review the fiscal intermediary contract between the State and HMSA and report its findings not later than 20 days prior to the regular session of 1978.

**SECTION 30.** Provided, that of the general fund appropriation for the Planning, Program Development and Coordination of Services for the Disadvantaged Program (GOV 860), \$638,862 in fiscal year 1977-78 and \$664,720 in fiscal year 1978-79 shall be used to fund the operations of the Legal Aid Society of Hawaii; provided further, that the Legal Aid Society shall conform to Section 37-32, Hawaii Revised Statutes; provided further, that the Legal Aid Society shall resume normal operations of the Legal Aid Office in Kona, Hawaii; and provided further, that should additional federal funds become available (beyond budgetary levels) the Legal Aid Society shall re-open the Legal Aid Office in Kaneohe, Oahu.

#### **FORMAL EDUCATION**

**SECTION 31.** Provided, that the general fund appropriation for School Food Services (EDN 305) shall be expended only to the extent necessary to defray costs of operating public school cafeterias in excess of the moneys received from the sale of meals, the sale of services, the federal government, and from any other source.

**SECTION 32.** Provided, that the amounts shown for Regular Instruction are intended for student enrollment projections of 172,349 for fiscal year 1977-78 and 170,609 for fiscal year 1978-79.

**SECTION 33.** Provided, that if the sum received by the Department of Education under Public Law 874, 81st Congress, 2nd Session, or any other public law which amends or supersedes Public Law 874, 81st Congress, 2nd Session, is less than \$12,400,000 for fiscal year 1977-78 and \$12,300,000 for fiscal year 1978-79, then the difference between \$12,400,000 for fiscal year 1977-78 and \$12,300,000 for fiscal year 1978-79 and the sum received for each respective year is hereby appropriated from the general fund to the Department of Education; provided further, that if the sum received is greater than \$12,400,000 for fiscal year 1977-78 and \$12,300,000 for fiscal year 1978-79, then the general fund appropriation to the Department of Education shall be reduced to the extent that the actual sum received exceeds \$12,400,000 and \$12,300,000 for each respective fiscal year.

**SECTION 34.** Provided, that of the amounts shown for Regular Instruction programs for which the source of funding is not specified, the sum of

\$107,313,649 for fiscal year 1977-78 and the sum of \$108,086,887 for fiscal year 1978-79 from the general fund and the sum of \$15,400,000 for fiscal year 1977-78 and the sum of \$14,800,000 for fiscal year 1978-79 from federal funds under P.L. 91-874, 81st Congress, 2nd Session, and P.L. 92-512 are appropriated to finance those programs for which the source of funding is not specified; provided further, that the superintendent of education shall determine, at his discretion, which portion of each program amount for the category "Operating: Basic Needs" shall be financed from the general fund and which portion shall be financed from federal funds, consistent with such federal provisions as may govern the expenditures of federal funds; provided further, that anything in the law or in any provision of this Act to the contrary notwithstanding, the superintendent of education is authorized to transfer funds and personnel positions for the category "Operating: Basic Needs" from one program to another among Regular Instruction programs in response to increases or decreases in individual school enrollments and teacher movements; provided further, that any such transfers of funds or positions shall not contravene any collective bargaining agreement that may have been or may be negotiated under Chapter 89, Hawaii Revised Statutes; provided further, that if the amounts shown for Regular Instruction programs for the category "Operating: Basic Needs" in either year of the fiscal biennium are insufficient to pay the personnel service costs for a particular school, the superintendent of education may supplement the amount from the sum of \$250,000 from the general fund for fiscal year 1977-78 and the sum of \$250,000 from the general fund for fiscal year 1978-79 provided for in EDN 304 (District Administration) such sums to be used for the sole purpose of supplementing school personnel service costs for regular instruction; provided further, that all such supplements to Regular Instruction programs for the category "Operating: Basic Needs" shall be reported to the 1978 and 1979 Regular Sessions of the Legislature; provided further, that personnel service costs for Regular Instruction programs may continue to be paid from a central salary account or such other accounts as the superintendent of education may, at his discretion, establish so as to minimize accounting or clerical burdens on individual schools.

SECTION 35. Provided, that in addition to the amount shown for Regular Instruction for the category "Operating: Basic Needs", the sum of \$752,355 for fiscal year 1977-78 and the sum of \$766,637 for fiscal year 1978-79 are appropriated from federal funds under P.L. 90-576 to be allocated by the superintendent of education, consistent with such federal provisions as may govern the expenditures of federal funds.

SECTION 36. Provided, that for the purpose of reporting variances in expenditures and other items as required by sections 37-69 and 37-75, Hawaii Revised Statutes, the amounts shown for Regular Instruction for the categories "Operating: Basic Needs" and "Operating: Special Needs" shall be aggregated into and reported under a single program; provided further, that such amounts are intended to be a single appropriation for the purpose of allotment control specified in Part II of Chapter 37, Hawaii Revised Statutes and appropriation accounting by the department of accounting and general services.

SECTION 37. Provided, that in addition to the amounts shown for Regular Instruction for the category "Operating: Basic Needs", the sum of \$566,377 (50.5) for fiscal year 1977-78 and the sum of \$571,663 for fiscal year 1978-79, or so much of those sums as may be necessary, are appropriated from the general fund for a statewide reserve as provided for in EDN 303 - State Administration, to be allocated, as necessary, by the superintendent of education to supplement the amounts shown and to meet contingencies for personnel positions, supplies, and equipment for Regular Instruction for the category "Operating: Basic Needs"; provided further, that all supplements made from the statewide reserve shall be reported to the 1978 and 1979 Regular Sessions of the Legislature.

SECTION 38. Provided, that of the amounts shown for Regular Instruction programs for the category "Operating: Special Needs", the superintendent shall expend for each school the amount shown for additional supplies, equipment, and services to augment regular instruction and other purposes which, at the school's discretion, will benefit students and improve the instruction program of the school; provided further, that each principal shall consult with teachers and, to the extent practicable, with parents and students, to solicit their advice on the purposes for which expenditures are to be made; provided further, that the amount shown for each school is based on a formula which provides each school with a basic allocation of \$2,000 plus an additional \$7 per pupil for FY 1977-78; provided further, that by such dates as designated by the superintendent of education and under such guidelines as he may issue, principals shall submit plans for the expenditure of special needs funds to their district superintendents; provided further, that a district superintendent may advise a principal to amend an expenditure plan if the need for a proposed expenditure can be met through the transfer of idle or underutilized supplies, equipment, or other resource from another school or source, and he is able to make such transfer; provided further, that all school expenditures shall be made through normal departmental procurement and disbursing procedures; provided further, that there shall be kept for each school a record of expenditures made, and the superintendent of education or the district superintendents may request the evaluation of specific expenditures; provided further, that the superintendent of education shall monitor expenditures to determine conformance to his guidelines and shall provide the legislature with such accountability reports as may be requested; provided further, that anything in the law or in any provision of this Act to the contrary notwithstanding, the superintendent of education may transfer funds in an equitable manner among programs for Regular Instruction for the category "Operating: Special Needs" in the event of significant changes in individual school enrollments resulting from such conditions as delayed school openings, changes in school boundaries, disasters or other emergencies and shall report to the legislature on the amounts transferred and the reasons therefor.

SECTION 39. Provided, that of the appropriation made for District Administration (EDN 304), the sum of \$3,150,160 from the general fund for fiscal year 1977-78 and the sum of \$3,150,160 from the general fund for fiscal

year 1978-79, or so much of those sums as may be necessary, are included for the purpose of paying substitute teachers.

SECTION 40. Provided, that the superintendent, in consultation with the district superintendent involved, shall have the authority to deploy any of the vice-principals who are currently in schools with a student enrollment count below 750; provided further, that any vacancies which occur among the vice-principal positions presently in schools with an enrollment count of less than 750, shall not be filled unless it is to accommodate the deployment of an incumbent vice-principal; provided further, that should new positions or vacancies occur in schools which qualify for vice-principal positions based on the 750 enrollment, such positions shall be filled with incumbent vice-principals presently in schools below the 750 enrollment count; provided further, that schools with vice-principal positions currently allocated based on special circumstances may continue to fill such positions should vacancies occur; and provided further, that multi-level schools (elementary-intermediate, elementary-intermediate-high, or intermediate-high) shall be entitled to a vice-principal even if the student enrollment count is below 750.

SECTION 41. Provided, that in implementing the appropriation for EDN 106-11 (Instructional Resource Augmentation/3-on-2), the superintendent of education, commencing with the 1977-78 school year, shall phase out 3-on-2 as a statewide program by June 30, 1981; provided further, that the 482 teacher positions included in the appropriation for EDN 106-11 and the 45 educational assistant positions for modified 3-on-2 included in the appropriations for EDN 105-1 to EDN 105-222 shall be utilized for instruction at the elementary school level in grades K-6; provided further, that district superintendents, in consultation with principals and with the approval of the state superintendent, may redeploy 3-on-2 teacher and 3-on-2 educational assistant positions among the elementary schools in their districts; provided further, that in each school, the principal, in consultation with the 3-on-2 teachers and educational assistants involved, other faculty members, and, if practicable, with the school advisory council and parents, shall decide how the 3-on-2 positions shall be used for instructional purposes; provided further, that such positions may be used for teachers to provide individual help for students, teachers of small groups, teachers for certain groups of students such as those with limited English-speaking ability, teachers for those students with special talents or interests, teachers in self-contained classrooms, teachers in team teaching configurations, or teachers of specialized subjects in such areas as the basic skills, art, music or physical education; provided further, that with respect to such 3-on-2 and modified 3-on-2 teams as may still be in place in the 1978-79 school year, the superintendent of education shall assess such teams and recommend to the legislature by December 31, 1978 whether any such teams should be continued in school year 1979-80, 1980-81 or beyond.

SECTION 42. Provided, that of the general fund appropriation for Other Regular Instruction (EDN 106-1 to EDN 106-11), \$25,750 for each fiscal year of the biennium shall be used for the Blue Water Marine Program.

SECTION 43. Provided, that of the general fund appropriation for

Exceptional Child Education (EDN 107), \$185,062 for fiscal year 1977-78 and \$199,995 for fiscal year 1978-79 shall be used for a special education summer program; provided further, that \$91,000 for the fiscal year 1977-78 shall be used for the planning of a project to provide service to students with learning disabilities.

SECTION 44. Provided, that of the general fund appropriation for Instructional Development (EDN 205), \$125,881 for fiscal year 1977-78 and \$87,061 for fiscal year 1978-79 shall be used for the testing of a teacher evaluation system, the Educator's Individualized Assessment System; provided further, that \$38,274 for fiscal year 1977-78 and \$40,785 for fiscal year 1978-79 shall be used for a program for the intellectually and artistically gifted and talented.

SECTION 45. Provided, that of the general fund appropriation for District Administration (EDN 304), \$116,914 for each year of the biennium shall be used for reading specialists on a contractual basis to be placed in the seven school districts; provided further, that \$361,242 for each year of the biennium shall be used for additional teams of art, music, and physical education specialists to be placed in the seven school districts.

SECTION 46. Provided, that if federal funds in the amounts designated under the Morrill-Nelson Bankhead-Jones Act, Hatch Act, and Smith-Lever Act are not received, then the differences between the amounts designated and the amounts received are hereby appropriated from the general fund to Instruction - UOH, Manoa (UOH 101), Organized Research - UOH, Manoa (UOH 102), and Public Service - UOH, Manoa (UOH 103), respectively; provided further, that if the federal funds received exceed the amounts designated, then the general fund appropriations for Instruction - UOH, Manoa (UOH 101), Organized Research - UOH, Manoa (UOH 102), and Public Service - UOH, Manoa (UOH 103), respectively, shall be reduced by the amounts such receipts exceed the federal funds authorized.

SECTION 47. Provided, that of the positions authorized for Instruction - UOH, Hilo (UOH 211), the President of the University of Hawaii may assign up to 70 permanent positions to the Hawaii Community College.

SECTION 48. Provided, that the general fund appropriation for Organized Research - UOH, Manoa (UOH 102) includes \$4,966,199 and 231.26 positions for the Hawaii Agricultural Experiment Station for fiscal year 1977-78 and \$5,151,728 and 231.26 positions for fiscal year 1978-79; provided further, that any increases due to collective bargaining above normal annual increments and longevity increases will be added to the amounts stated above in each year of the fiscal biennium.

SECTION 49. Provided, that the general fund appropriation for Public Service - UOH, Manoa (UOH 103) includes \$2,109,056 and 81.31 positions for the Cooperative Extension Service for fiscal year 1977-78; provided further, that any increases due to collective bargaining above normal annual increments and longevity increases will be added to the amounts stated above in each year of the fiscal biennium.

**SECTION 50.** Provided, that the governor shall not transfer funds or positions between campuses of the University of Hawaii system, except in the event of emergencies and only after obtaining approval of the president of the senate and the speaker of the house of representatives; and provided, that no transfer shall be made to implement any collective bargaining contract signed after this legislature adjourns sine die.

**SECTION 51.** Provided, that of the general fund appropriation for Organized Research - UOH, Manoa (UOH 102), \$100,000 for each year of the biennium shall be used to match federal funds for cancer research.

**SECTION 52.** Provided, that of the general fund appropriation for Academic Support - UOH, System-Wide Support (UOH 901), \$400,000 (49.00) for fiscal year 1977-78 and \$400,000 (49.00) for fiscal year 1978-79 shall be used for the Educational Improvement Fund; provided further, that priorities shall be given to existing undergraduate instructional programs and areas of selected excellence in instruction, research and public service throughout the University system; provided further, that a status report shall be presented to the 1978 and 1979 Legislature.

**SECTION 53.** Provided, that the Hawaii WICHE Commissioners shall recommend to the 1978 Legislature, a program and financial plan which considers the projected number of applicants and selection criteria for certification.

**SECTION 54.** Provided, that the general fund appropriation for the Systemwide Support - Institutional Support (UOH 903) includes \$15,000 for each year of the fiscal biennium to be expended at the discretion of the President of the University of Hawaii.

## **CULTURE AND RECREATION**

**SECTION 55.** Provided, that \$44,000 of the general fund appropriations for the 1977-79 biennium from the Cultural History Program (BUF 802) shall be allocated in the following manner: Hawaii Review Board - \$17,000 in each fiscal year of the 1977-79 biennium; Polynesian Voyaging Society - \$5,000 in each fiscal year of the 1977-79 biennium.

**SECTION 56.** Provided, that \$41,653 in general fund appropriations for fiscal year 1977-78 and \$42,840 in general fund appropriations for fiscal year 1978-79 from the Cultural History Program (BUF 802) shall be allocated in the following manner: Personnel services for the Hawaii Foundation for History and the Humanities - \$24,634 in fiscal year 1977-78 and \$25,821 in fiscal year 1978-79; Operating costs for the Hawaii Foundation for History and the Humanities - \$17,019 in each fiscal year of the 1977-79 biennium.

**SECTION 57.** Provided, that of the general fund appropriation for the Cultural History Program (BUF 802), \$80,000 shall be expended each fiscal year to provide for the continuation and expansion of the Ethnic Studies Oral History Project. Provided further, that annual progress reports on the Project shall be submitted to the Legislature.

**SECTION 58.** Provided, that \$35,000 in general fund appropriations for

fiscal year 1977-78 from the Cultural History Program (BUF 802) shall be allocated to the Hawaii Foundation for History and the Humanities (hereinafter called the Foundation) to contract for the services of the Multi-Cultural Center for an oral history project. The State shall be deemed the owner of any and all materials, whether complete or incomplete, written or recorded, which are generated by the Multi-Cultural Center in carrying out the terms of this provision. All expenditures shall be recorded, and all receipts and other supporting documentation shall be retained by the Center which shall maintain standard accounting procedures and the foregoing, together with balance sheets and financial statements, shall be submitted to the Foundation no later than fifteen (15) days after the close of the fiscal year.

**SECTION 59.** Provided, that recipients of state funds expended through the State Foundation on Culture and the Arts shall acknowledge in all announcements, publications, promotional literature and advertisements for all performing and visual arts events that the event is supported in whole or in part by funds from the State of Hawaii.

**SECTION 60.** Provided, that \$70,000 in general fund appropriations for the King Kamehameha Celebration Commission in the Ethnic Group Presentations Program (AGS 818) shall be allocated in the following manner:

City and County of Honolulu - \$17,500 in each fiscal year of the 1977-79 biennium; County of Kauai - \$4,200 in each fiscal year of the 1977-79 biennium; County of Maui - \$5,600 in each fiscal year of the 1977-79 biennium; and County of Hawaii - \$7,700 in each fiscal year of the 1977-79 biennium; provided further, that of \$11,200 allocated to the County of Maui, \$1,865 shall be allocated to the Island of Molokai.

**SECTION 61.** Provided, that \$7,500 appropriated for the 1977-79 biennium to the King Kamehameha Celebration Commission in the Ethnic Group Presentations Program (AGS 818) shall be expended to supplement personnel services for a proposed Clerk Typist II at \$3,750 in each fiscal year of the 1977-79 biennium.

**SECTION 62.** Provided, that for Spectator Events and Shows (BUF 889), the general fund appropriation for each fiscal year of the 1977-79 biennium shall be reduced to the extent that special fund revenues exceed the amounts authorized in this Act; provided further, that if the special fund revenues are not received as anticipated, then the difference between the amounts designated and the amounts received is hereby appropriated from the general fund to Spectator Events and Shows (BUF 889).

**SECTION 63.** Provided, that of the sum appropriated to Spectator Events and Shows (BUF 889), a sum not to exceed \$5,000 for each fiscal year of the fiscal biennium 1977-79 shall be authorized by the Stadium Authority to be expended at the discretion of the Stadium manager for promotion and other Stadium purposes.

#### **PUBLIC SAFETY**

**SECTION 64.** Provided, that the appropriation for correctional facilities are intended for the following average daily resident population: Juvenile

Correctional Facility (SOC 401) - population of 108 for fiscal year 1977-78 and 119 for fiscal year 1978-79, Interim Oahu Confinement Facilities (SOC 420) - population of 270 for fiscal year 1977-78 and 345 for fiscal year 1978-79, Adult Honor Camps (SOC 403) - population of 71 for fiscal year 1977-78, and 73 for fiscal year 1978-79, Hawaii Community Correctional Facility (SOC 405) - population of 32 for fiscal year 1977-78 and 34 for fiscal year 1978-79, Maui Community Correctional Facility (SOC 406) - population of 23 for fiscal year 1977-78 and 25 for fiscal year 1978-79, Kauai Community Correctional Facility (SOC 408) - population of 6 for each fiscal year of the fiscal biennium 1977-79, and Conditional Release Centers (SOC 404) - population of 36 for each fiscal year of the fiscal biennium 1977-79.

If the average daily population of residents in a specific facility increases as the direct result of a temporary transfer of residents between facilities for the purpose of implementing the correctional master plan, such funds as may be required may be transferred with the residents.

SECTION 65. Provided, that of the appropriation made for General Administration - Confinement and Parole (SOC 493), \$80,000 for fiscal year 1977-78 and \$35,000 for fiscal year 1978-79 shall be for overtime costs incurred by personnel who are required to participate in inservice training; provided further, that the Department of Social Services and Housing shall submit a report on the development and progress of the inservice training program to the 1978 Legislature.

SECTION 66. Provided, that of the appropriation made for the Hawaii Youth Correctional Facility (SOC 401), \$60,000 in each fiscal year shall be used to contract the services of a carpenter (\$10,000), sewing instructor (\$10,000), nursery personnel (\$10,000), ground maintenance personnel (\$10,000), herdsman (\$10,000), and an institutional recreational therapist (\$10,000).

SECTION 67. Provided, that of the appropriation made for the Juvenile Correctional Facilities (SOC 401), \$3,000 in each fiscal year shall be used to hire a temporary clerk-steno.

SECTION 68. Provided, that of the appropriation made for Criminal Injuries Compensation (SOC 414), \$11,642 for fiscal year 1977-78 and \$15,310 for fiscal year 1978-79 shall be used for one investigator including related expenses.

SECTION 69. Provided, that if the Hawaii Army National Guard and the Hawaii Air National Guard shall be called or ordered into the service of the United States, the appropriation made for DEF - Amelioration of Physical Disasters (DEF 110) or any unexpended part thereof shall be available to the Hawaii State Guard. If only a part of the Hawaii Army National Guard or the Hawaii Air National Guard should be called or ordered into the service of the United States, the adjutant general with the approval of the director of finance shall allocate the appropriation or any unexpended part thereof between the Hawaii State Guard and the Hawaii National Guard.

## GOVERNMENT-WIDE SUPPORT

SECTION 70. Provided, that the appropriation for the Office of the

Governor (GOV 100) shall be expended at the discretion of the Governor.

SECTION 71. Provided, that the appropriation for the Office of the Governor (GOV 100) includes \$100,000 for the Governor's contingency fund, which may be transferred to other appropriations with the approval of the Governor for urgent needs; provided further, that expenditures and transfers from the contingency fund shall not exceed the foregoing sum of \$100,000 in each fiscal year.

SECTION 72. Provided, that of the general fund appropriation for Other Policy Development and Coordination - Governor (GOV 102), \$345,388 (3.00) for fiscal year 1977-78 and \$356,882 (3.00) for fiscal year 1978-79 shall be used for the Agriculture Coordinating Committee.

SECTION 73. Provided, that the appropriation for the Office of the Lieutenant Governor (LTG 100) shall be expended at the discretion of the Lieutenant Governor.

SECTION 74. Provided, that of the general fund appropriation for the Office of the Lieutenant Governor (LTG 100), \$50,000~~(2.00)~~ for each fiscal year of the biennium shall be used for a voter education program.

SECTION 75. Provided, that of the general fund appropriation for Land Use, Statewide Plan and Coordination (PED 103), \$400,000 in each fiscal year for the Coastal Zone Management Program shall be expended only if matching federal funds are available.

SECTION 76. Provided, that of the general fund appropriation for Supporting Services—Revenue Collection (TAX 107), \$132,500 in each fiscal year shall be used for the payment of appraiser and witness fees.

SECTION 77. Provided, that of the general fund appropriation for Supporting Services—Revenue Collection (TAX 107), \$350,000 in the fiscal year 1977-78 shall be used for the computerization of taxation programs.

SECTION 78. Provided, that of the general fund appropriation for Legal Services (ATG 100), \$25,000 in each fiscal year shall be used for the payment of tort claims arbitrated, compromised or settled for amounts not in excess of \$2,000. Provided further, that of the general fund appropriation for Legal Services (ATG 100), \$425,000 for the fiscal year 1977-78 and \$200,000 for the fiscal year 1978-79 shall be used for litigation purposes.

SECTION 79. Provided, that notwithstanding any position ceiling the Governor may transfer positions and funds between existing programs of the State government for the purpose of establishing an integrated statewide data processing system.

SECTION 80. Provided, that the Board of Trustees of the Hawaii Public Employees' Health Fund program may use so much of the contributions appropriation under Group Life Insurance, Medical, Hospital, and Dental Benefits (BUF 142) as necessary to advance the amount of employee-beneficiaries monthly contributions to the fund, pending receipt of such contributions from employee-beneficiaries.

SECTION 81. Provided, that of the general fund appropriation for

Program Planning, Analysis, Budgeting and Coordination (BUF 101), \$75,000 in each fiscal year shall be used for the Office of the Federal Programs Coordinator.

SECTION 82. Provided, that the Governor may utilize appropriate staff and resources from any State agency on an ad hoc basis for the study or development of a managed economic growth plan.

SECTION 83. Provided, that of the general fund appropriation for fiscal year 1977-78 to Subsidies to Counties (SUB 101), additional grants-in-aid representing the unallocated balance of sums appropriated in Section 4 (49), Section 87B, Act 226, Sessions Laws of Hawaii 1976, shall be allocated in the following manner: County of Kauai, \$822,088; County of Hawaii, \$1,065,001; and County of Maui, \$700,000. Provided further, that out of the general fund appropriation for fiscal year 1977-78 to Subsidies to Counties (SUB 101), an additional one-time grants-in-aid of \$3,529,000 shall be allocated to the City and County of Honolulu.

SECTION 84. Provided, that the following sums in Part II appropriated for incremental and longevity salary increases for employees of the State of Hawaii are authorized to be used to fund cost items in collective bargaining agreements ratified for bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 13 for the fiscal biennium 1977-1979:

	FY 1977-78	FY 1978-79
General Fund	\$9,176,583	\$18,066,308
Federal Funds	858,982	1,877,954
Special Fund	1,607,964	2,941,034
Other Funds	106,427	223,051

SECTION 85. Provided, that the department of accounting and general services shall conduct a study of the feasibility of implementing a statewide microwave communication system and report its findings to the legislature not later than February 1, 1978; provided, that \$10,000 in savings as may be available from the appropriations authorized in Part II of this Act may be used to accomplish the purpose of this section.

#### **PART IV. CAPITAL IMPROVEMENT PROJECTS**

SECTION 86. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided, that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and total funding for each project listed in this part are in thousands of dollars.)

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
A. ECONOMIC DEVELOPMENT									
TRADE AND FINANCE									
	Economic Assistance for Trade & Finance		PED 105						
1	Hawaii International Trade Center		A11						
	Plans and construction for development of the Hawaii International Trade Center, including necessary off-site improvements. Unexpended balances in item A-12 of Act 195, SLH 1975 may be used for this project.								
	Design				1			1	
	Construction				1			1	
	Total Funding				2C		C		2C
AGRICULTURE									
	Productivity imprvmnt & Mgt Asstnce for Agr Production & Mngmt Methods Imprvmnt for Agr Farms & Ranches—Prodctn & Mgt Imprvmnt		HHL 111						
2	Molokai Water System Improvement		H30						
	To upgrade the existing water system on Molokai to County of Maui standards.								
	Design				150			150	
	Construction				900		2,000	2,900	
	Total Funding				1,050C		2,000C	3,050C	
3.	Panaewa Farm Subdivision		H38						
	Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan.								

	Design		60	60
	Construction	1,200	800	2,000
	Total Funding	1,200C	860C	2,060C
4.	Anahola-Moloaa Farm & Pastoral Subdivision	H39		
	Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.			
	Design	50		50
	Construction	1,250		1,250
	Total Funding	1,300C	C	1,300C
5.	Hawaiian Home Lands Project, Molokai	H40		
	Plans for development of Hawaiian Home Lands in accordance with DHHL General Plan.			
	Design	50		50
	Total Funding	50C	C	50C
6.	Hawaiian Home Lands Proj, Kamaoa-Puueo, Ha	H43		
	Plans for development of Hawaiian Home Lands in accordance with DHHL General Plan.			
	Design	50		50
	Total Funding	50C	C	50C
7.	Hawaiian Home Lands Project, Anahola, Kauai	H45		
	Plans for development of Hawaiian Home Lands in accordance with DHHL General Plan.			
	Design	50		50
	Total Funding	50C	C	50C
	Plant Pest and Disease Control			
	Design	50		50
	Total Funding	50C	C	50C
	Plant Quarantine	AGR 121		
8.	Laboratory Expansion Plant Quarantine Facility	O17		
	Honolulu			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F	FY M 1978-79 F	Total Biennium M 1977-79 F
	Expansion of laboratory by 816 sq. ft.					
	Design			14		14
	Construction				82	82
	Total Funding			14C	82C	96C
9.	Plant Industry Facility Hilo Hawaii		O18			
	Site selection and design of new facilities for plant industry, farm loan and milk control divisions. Demolition of present facilities.					
	Design			66		66
	Total Funding			66C	C	66C
10.	New Air Tight Seal and Door Fumigation Vaults		019			
	Plant Quarantine Facility Honolulu					
	Design and construct new sealing system and doors for the drive in fumigation vaults Plant Quarantine Facility, Honolulu Hawaii					
	Design			5		5
	Construction			28		28
	Total Funding			33C	C	33C
	Animal Pest and Disease Control					
	Animal Disease Control		AGR 132			
11.	Animal Industry Laboratory,		002			
	Office Building, Halawa					
	Construct and completely equip an 18,000 sq. ft. laboratory-office building to centralize the programs of the programs of the animal industry division and to comply with the terms of the agreement with the Federal Government on which the land at Halawa was released.					

	Design	73		73
	Construction	2,573		2,573
	Total Funding	2,646C	C	2,646C
	General Support for Agr			
	General Administration for Agr	AGR	192	
12.	Renovation of DOA Facilities, King and Keeaumoku Streets, Oahu	011		
	Additions and renovations to the present facilities located in the main complex, Department of Agri- culture, King and Keeaumoku Streets, Honolulu.			
	Design	51	77	128
	Construction	105	243	348
	Total Funding	156C	320C	476C
13.	Renovation of HDI Facilities, Ala Moana Oahu	012		
	Additional office space and other renovations to the present Hawaii Development Irradiator Building located on Ilalo Street, Ala Moana Oahu.			
	Design		53	53
	Total Funding	C	53C	53C
	Water Development & Irrigation Services	LNR	141	
14.	Kona Water Project, Hawaii	G03		
	Kona Water Project, Hawaii			
	Incremental development of water system including plans and construction of source development, a development shaft, pumps and appurtenances, transmission mains, and storage facilities.			
	Design		50	50
	Construction	2,500	730	3,230
	Total Funding	2,500C	780C	3,280C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
15.	West Maui Water Project, Maui		G04						
	West Maui Water Project, Maui								
	Incremental development of water systems, including plans and construction of source development, transmission mains, storage facilities and appurtenances, including development of water resources.								
	Land Acquisition			20				20	
	Design			80				80	
	Construction			450		450		900	
	Total Funding			550C		450C		1,000C	
16.	Koloa-Poipu Water System, Kauai		G18						
	Koloa-Poipu Water System, Kauai								
	Incremental development of water system including plans and construction of pipelines, storage facilities, source development and appurtenances.								
	Design			20				20	
	Construction			650				650	
	Total Funding			670C		C		670C	
17.	Water Sources Investigation and Development, Hawaii		G25						
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.								
	Land Acquisition			10		10		20	
	Design			30		30		60	
	Construction			260		260		520	

18. Water Sources Investigation, and Development, G43  
Oahu

Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.

Land Acquisition	10	10	20
Design	90	90	180
Construction	300	300	600
Total Funding	400C	400C	800C

19. Water Sources Investigation, and Development, G44  
Kauai

Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.

Land Acquisition	10	10	20
Design	50	50	100
Construction	240	240	480
Total Funding	300C	300C	600C

20. Water Sources Investigation, and Development, G46  
Maui

Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.

Land Acquisition	10	10	20
Design	50	50	100
Construction	240	240	480
Total Funding	300C	300C	600C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
21.	Improvements to Lalamilo Irrigation System, Hawaii		G52						
	Improvements to irrigation system including plans and construction of pipelines, storage facilities, source development, land acquisition and installation and replacement of transmission mains and appurtenances.								
	Land Acquisition					10		10	
	Design			190		130		320	
	Construction					1,900		1,900	
	Total Funding			190C		2,040C		2,230C	
22.	Molokai Tunnel Power Line		G53						
	Replacement of existing high voltage cable in the Molokai Tunnel, including the installation of transformers and appurtenances.								
	Design			40				40	
	Construction			410				410	
	Total Funding			450C		C		450C	

## C. TRANSPORTATION FACILITIES

## AIR TRANSPORTATION FACILITIES AND SVCS

## HIA Facilities &amp; Svcs

TRN 102

1. Freeway Connection and Roadway Alter. A10  
Construct the ramps and roadway connections to the H-1 freeway, alterations to the internal

roadway system, and other miscellaneous adjustments and improvements.

	Design		500	500
	Construction		4,580	4,580
	Total Funding	B	2,526B	2,526B
		N	2,554N	2,554N
2.	Taxiway Improvements	A12		
	Construction of high speed exit taxiway and appurtenances and stabilize shoulders of various taxiways			
	Design		175	175
	Construction		1,589	1,589
	Total Funding	B	764B	764B
		N	1,000N	1,000N
3.	Construction of Central Concourse	A13		
	Construct two-level passenger gates for wide bodied aircraft & smaller at central concourse. Reconstruct existing apron, taxiway, fuel system & other misc. improvements. Install loading bridges, apron transporters, docking systems, furniture & other misc. equipment. Reconstruct existing landscaped gardens.			
	Design		200	200
	Construction		22,896	22,896
	Total Funding		7,767B	7,767B
			10,701E	10,701E
			4,628N	4,628N
4.	Concrete Keel Extension, Runway 8L	A16		
	Construct 900 feet plus section of keel within the Hickam property and adjust the runway lights and other improvements.			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 O F	FY M 1978-79 O F	Total Biennium M 1977-79 O F
	Design			40		40
	Construction			410		410
	Total Funding			450B	B	450B
5.	Fire Alarm System		A17			
	Upgrade the terminal fire alarm system, including the integration of the system with the City and County and airport fire stations.					
	Design			6		6
	Construction			56		56
	Total Funding			62B	B	62B
6.	New Control Tower		A18			
	Construct new control tower and miscellaneous appurtenances.					
	Design			5		5
	Construction			870		870
	Total Funding			875B	B	875B
	General Lyman Field Facilities and Svcs		TRN 111			
7.	Airfield Improvements		B05			
	Construct runway safety areas and other airfield improvements.					
	Design			5		5
	Construction			70		70
	Total Funding			75D	D	75D

Ke-Ahole Airport Facilities and Services

TRN 114

8. Ke-Ahole Airport Expansion to Auto Parking C02  
Alteration and expansion of auto parking area, roadway improvement, lighting, landscaping, and other miscellaneous improvements.

Design	20		20
Construction	130		130
Total Funding	150D	D	150D

9. Terminal Improvements C03  
Construct the airport maintenance building, new fire station and expand the terminal facilities and other improvements.

Design	30		30
Construction	670		670
Total Funding	210D	D	210D
	490N	N	490N

10. Airfield Improvements C05  
Expand aircraft apron, landscaping, and other appurtenances.

Design	8		8
Construction	116		116
Total Funding	124D	D	124D

Kahului Airport Facilities and Services

TRN 131

11. Kahului Airport Terminal Expansion D04  
Construct additions and alterations to passenger and cargo terminal buildings, parking lot, roadways and other misc. improvements. Landscape and install furniture and other miscellaneous equipment.

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F	FY M 1978-79 F	Total Biennium M 1977-79 F
	Design			125		125
	Construction			2,375		2,375
	Total Funding			2,500E	E	2,500E
	Lihue Airport Facilities and Services		TRN 161			
12.	New Passenger Terminal		E03			
	Design and construct new terminal facilities and other miscellaneous improvements.					
	Design				400	400
	Construction				7,460	7,460
	Total Funding			B	4,809B	4,809B
	Kalaupapa Airport Facilities and Services		TRN 181	E	3,051E	3,051E
13.	Roadway and Fencing		D90			
	Acquire government surplus land, realign public roadway, install perimeter fencing and other miscellaneous improvements.					
	Design			6		6
	Construction			104		104
	Total Funding			30D	D	30D
				80N	N	80N
	WATER TRANSPORTATION FACILITIES AND SERVICES					
	Honolulu Harbor Facilities and Services		TRN 301			

14.	Misc Improv to Exist Pier Fac at Hon Har Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu Harbor, including improvements to lighting, oil lines, paving, and other facilities.	J03			
	Design		8	9	17
	Construction		47	51	98
	Total Funding		55B	60B	115B
15.	Container Facilities at Honolulu Harbor Improvements and/or modifications to the exist- ing facilities at Honolulu Harbor to meet the growing demands of container operations and other improvements.	J04			
	Design		65		65
	Construction		435		435
	Total Funding		500D	D	500D
16.	Container Facilities at San Island, Oahu Expansion and development of container facilities at Sand Island, including piers, sheds, yard areas and other improvements.	J06			
	Design		300		300
	Construction		9,300		9,300
	Total Funding		9,600D	D	9,600D
17.	Navigational Improvements to Hon Harbor Navigational improvements. Dredge main en- trance channel and main harbor basin, and Kapa- lama channel and basin construction of revet- ments and other improvements. Possible Federal aid anticipated in the planning period is approxi- mately \$7,380,000.	J09			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
	Design					50		50	
	Construction					275		275	
	Total Funding			B		325B		325B	
18.	Improvements to Piers 39-40 Complex, Hon Har		J20						
	Improvements to piers 39-40 complex including renovations, new facilities and other improvements.								
	Design					65		65	
	Construction					435		435	
	Total Funding			B		500B		500B	
19.	Bascule Bridge, Honolulu Harbor		J22						
	Preliminary engineering for a second Bascule Bridge to Sand Island at Honolulu Harbor.								
	Design			300				300	
	Total Funding			300B		B		300B	
	Hilo Harbor Facilities and Services		TRN 311						
20.	Hilo Harbor Improvements, Hawaii		L01						
	Improvements to Hilo Harbor port facilities including modifications to pier 1 shed and apron, expansion of container facilities, construction of Ro-Ro facilities, improvements to pier 2-3 area, removal of bag sugar warehouse, and other improvements.								

	Design	15		15
	Construction	60		60
	Total Funding	75B	B	75B
	Kawaihae Harbor Facilities and Services	TRN 313		
21.	Kawaihae Harbor Improvements, Hawaii	L03		
	Kawaihae Harbor improvements including barge terminal expansion, office and shop facilities and other improvements.			
	Design		28	28
	Construction		122	122
	Total Funding	B	150B	150B
	Kahului Harbor Facilities and Services	TRN 331		
22.	Kahului Harbor Improvements Maui	M01		
	Kahului Harbor improvements including acquisition of land, development of container facilities, Ro-Ro, and fishing vessel facilities, and other improvements.			
	Land Acquisition	810		810
	Construction	854		854
	Total Funding	200B	B	200B
		1,464D	D	1,464D
	Nawiliwili Harbor Facilities and Services	TRN 361		
23.	Nawiliwili Harbor Improvements Kauai	K01		
	Nawiliwili Har impr including paving cargo storage areas, utility relocation, comfort station in the jetty area, removal of water storage tank, and Federal-State future project including dredging and widening of entrance channel and harbor basin, and			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
	other improvements, possible federal aid anticipation is approx. \$3,480,000.								
	Design			22		15		37	
	Construction			88		60		148	
	Total Funding			110B		75B		185B	
	WATER TRANSPORTATION FAC & SVCS SUPPORT		TRN 395						
24.	Misc. Improv. to Fac. at Neighbor Is. Ports		T03						
	Improvements to yard areas, sheds, piers, utilities. Water areas and other facilities.								
	Design			4		4		8	
	Construction			21		21		42	
	Total Funding			25B		25B		50B	
	LAND TRANSPORTATION FACILITIES AND SERVICES								
	Oahu Highways and Services		TRN 501						
25.	Interstate Route H-1, Safety Improvements		047						
	And reconstruction of University Avenue interchange, Oahu—safety improvements and reconstruction of University Avenue interchange.								
	Design					30		30	
	Total Funding			D		30D		30D	
26.	Interstate Route H—1, East of Halawa I.C.		R12						
	To Middle Street separation, Oahu— incremental construction of eight freeway lanes, including Pearl Harbor, Airport and Keehi interchanges.								
	Construction			49,347		38,327		87,674	
	Total Funding			4,755D		3,813D		8,568D	
				44,592J		34,514J		79,106J	

27.	Busway on Interstate and Other Routes on Oahu	R13			
	Construction of busways for mass transit on interstate and other routes.				
	Design		70	70	140
	Construction		530	530	1,060
	Total Funding		200D 400N	200D 400N	400D 800N
28.	Likelike Highway Lighting--Tunnel to Kam Highway, Kaneohe	S04			
	Lighting on the Windward side of Wilson Tunnel to the intersection of Kam Highway.				
	Construction		133		133
	Total Funding		133D	D	133D
29.	Improvements to Oahu District Base- yard, Honolulu, Oahu	S42			
	Design			8	8
	Construction			53	53
	Total Funding		D	61D	61D
30.	Oahu Bikeways, Oahu	S74			
	Construct a bikeway on Oahu from the vicinity of Ala Moana Park to Mokuleia by way of Pearl Harbor, Waipahu, Waianae and Kaena Point.				
	Design			30	30
	Total Funding		D	30D	30D
31.	Honolulu Airport Gateway Beautifi- cation, Nimitz Highway & Ala Moana Blvd., Oahu.	S76			
	Landscaping and sprinkler systems on Nimitz Highway and Ala Moana Blvd. from vicinity of Sand Island Access Road to the vicinity of Ala Wai Canal.				
	Design		200		200
	Total Funding		200D	D	200D

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
32.	Guardrail Improvements, Various Locations on State Highways on Oahu. Installation of new steel guardrails, new concrete safety barrier, replacement of existing wooden guardrails with steel guardrails and modernization of existing guardrails at various locations on State highways on Oahu.		S78						
	Design			20		20		40	
	Construction			280		280		560	
	Total Funding			300D		300D		600D	
33.	Shoulder Stabilization, Various Locations on State Highways on Oahu. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on State highways on Oahu.		S79						
	Design			13		7		20	
	Construction			122		93		215	
	Total Funding			135D		100D		235D	
34.	Study to Increase Safety & Capacity of Interstate H-1 from Middle St. to Aina Koa, Oahu.		S81						
	Design			250				250	
	Total Funding			250D		D		250D	
	Hawaii Highways and Services		TRN 511						
35.	Keaau-Pahoa Rd., Puna, Hawaii Realignment of highway from the vicinity of Keonepoko Homesteads to Pahoa-Kalapana road in the vicinity of the Pahoa-		T62						

	Kalapana-Kapoho road junction. Funds to be supplemented by item C-59 of Act 195, SLH 1975 and item C-33 of Act 226, SLH 1976.			
	Land Acquisition	D	200 70D	200 70D
	Total Funding	L	130L	130L
36.	Honokaa-Waipio Road: Hamakua, Hawaii. Design and construction of two-lane highway from Haina Road intersection to Waipio Lookout.	T72		
	Construction	1,032		1,032
	Total Funding	1,032D	D	1,032D
37.	Hawaii Belt Road, Kau-Kona Hwy., Hawaii Plans and construction for incremental construction and realignment of highway between Kau and Kona.	T73		
	Construction		650	650
	Total Funding	D	650D	650D
38.	Keaau-Pahoa Road Puna, Hawaii. Reconstruction of highway from Hawaiian Paradise Park to vicinity of Keonepoko Homesteads.	T75		
	Land Aquisition		149	149
	Total Funding	D L	52D 97L	52D 97L
39.	Shoulder Stabilization, Various Locations on State Highways on Hawaii. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on State highway on Hawaii.	T77		
	Design	6	9	15
	Construction	122	179	301
	Total Funding	128D	188D	316D

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F		FY M 1978-79 F		Total Biennium M 1977-79 F	
40.	Guardrail Improvements, Various Locations on State Highways on Hawaii. Installation of new steel guardrails, replacement of existing wooden guardrails with steel guardrails and modernization of existing guardrails at various locations on State highways on Hawaii.		T78						
	Design			5		5		10	
	Construction			41		44		85	
	Total Funding			46D		49D		95D	
	Maui Highways and Services		TRN 531						
41.	Maui Baseyard, Kahului, Maui. Design and construction for Maui district baseyard.		V17						
	Design					40		40	
	Total Funding			D		40D		40D	
42.	Honoapiilani Highway, Lahaina, Maui		V42						
	Construction of two-lane highway from Honokowai to Honokahua.								
	Construction			3,164				3,164	
	Total Funding			839D		D		839D	
				2,325K		K		2,325K	
43.	Hana Highway—Kailua to Hana, Maui		V45						
	Repair and replacement of bridges and culverts, safety improvements and resurfacing of Hana highway from Kailua to Hana.								
	Land Aquisition			40		40		80	
	Design			60		60		120	
	Construction			530		530		1,060	

	Total Funding		630D	630D	1,260D
44.	Kahului Airport Gateway Beautification - Kahului Airport to Wailuku, Maui Beautification of highway from Kahului Airport to Wailuku.	V46			
	Design		70		70
	Total Funding		70D	D	70D
45.	Honoapiilani Highway - Papalaua Drainage Basin, erosion control of embankment, Maui.	V47			
	Design		5		5
	Construction		195		195
	Total Funding		200D	D	200D
46.	Guardrail Improvements, Various Locations on State highways on Maui. Installation of new guardrails, replacement of existing wooden guardrails with steel guardrails and modernization of existing guardrails at various locations on State highways on Maui.	V48			
	Design		15	20	35
	Construction		95	108	203
	Total Funding		110D	128D	238D
47.	Shoulder Stabilization, Various Locations on State Highways on Maui. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on State highways on Maui.	V49			
	Design		15	10	25
	Construction		280	280	560
	Total Funding		295D	290D	585D
	Molokai Highways and Services	TRN 541			
48.	Maintenance Baseyard, Molokai Construction of a maintenance baseyard,	W05			

Drainage improvements at various locations on Kamehameha V Highway Kaunakakai to Kamalo and Maunaloa Highway.  
Item 49, second column, after line 3.

089

				APPROPRIATIONS (\$1,000's)		
Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M O F	FY 1978-79 M O F	Total Biennium 1977-79 M O F
	facilities and office for Molokai.					
	Construction				125	125
	Total Funding			D	125D	125D
49.	Kamehameha V Hwy & Maunaloa Hwy., Drainage Improvements at Various Locations, Molokai.		W06			
	Design				20	20
	Construction				100	100
	Total Funding			D	120D	120D
50.	Kamehameha V Highway & Maunaloa Highway — Replacement of Bridges, Molokai.		W07			
	Replacement of Ohia, Kaluaaha, Kupeke, Honomuni, Honoulimaloo Bridges on Kamehameha V Highway and Manawainui Bridge on Maunaloa Highway.					
	Design			75	120	195
	Construction				600	600
	Total Funding			75D	720D	795D
	Lanai Highways and Services	TRN	551			
51.	Maintenance Baseyard, Lanai		W57			
	Construction of baseyard and new facilities for Lanai.					
	Construction				60	60
	Total Funding			D	60D	60D
	Kauai Highways and Services	TRN	561			
52.	Kauai Belt Rd., Wainiha to Lumahai		X02			
	Construction of approximately 1.5 miles of highway from intersection of Wainiha					

ACT 10

Power House road and Kuhio Highway towards Lumahai Bridge. To be supplemented by item C-99, Act 187, 1970.

	Design		100	100
	Total Funding	D	100D	100D
53.	Kauai Belt Rd., Hanalei to Kalihiwai Hanalei, Kauai—Construction of highway, including appurtenant drainage, landscaping and improvements.	X03		
	Construction		2,546	2,546
	Total Funding	D	661D	661D
		K	1,885K	1,885K
54.	Kauai Belt Rd., Lumahai to Hanalei Kauai—Construction of highway, including major drainage structure and landscaping.	X04		
	Land Acquisition		50	50
	Construction		644	644
	Total Funding	D	694D	694D
55.	Kekaha Sea Wall, Kauai Plans and construction of addition to seawall along Kaumualii Highway.	X37		
	Design	20		20
	Construction	200		200
	Total Funding	220D	D	220D
56.	Hanamaulu—Ahukini Cutoff Rd., Kauai	X43		
	Land acquisition, plans & construction of hwy to relieve congestion thru Lihue town area.			
	Land Acquisition		200	200
	Total Funding	D	200D	200D
57.	Lihue Airport Gateway Beautification —Kauai	X44		
	Beautification of Ahukini Road between Lihue Airport and Kuhio Highway and Ahukini—Nawiliwili cutoff road.			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M O F	FY 1978-79 M O F	Total Biennium 1977-79 M O F
	Land Acquisition			50		50
	Design			130		130
	Construction			250		250
	Total Funding			430D	D	430D
58.	State Highways, Kauai	X49				
	Safety improvements at various locations including drainage.					
	Land Acquisition				20	20
	Design			40	30	70
	Construction				200	200
	Total Funding			40D	250D	290D
59.	Kauai Belt Road—Safety improvements, Kauai Safety improvements between Eleele Road and Hanapepe Road.	X50				
	Design				5	5
	Construction				375	375
	Total Funding			D	380D	380D
60.	Shoulder Stabilization, Various Locations on State Highways on Kauai.	X51				
	Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving at various locations on State highways on Kauai.					
	Design			15	15	30
	Construction			212	205	417
	Total Funding			227D	220D	447D
61.	Guardrail Improvements, Various Locations on State Highways on Kauai.	X52				
	Installation of new steel guardrails, replacement of existing wooden guardrails with					

steel guardrails and modernization of existing guardrails at various locations on State highways on Kauai.

	Design	5	5	10
	Construction	85	90	175
	Total Funding	90D	95D	185D
	Land Transportation Fac & Svcs Support	TRN	595	
62.	Miscellaneous Drainage Improvements Statewide—Drainage improvements to existing highway facilities.	X97		
	Land Acquisition	5	5	10
	Design	15	15	30
	Construction	80	80	160
	Total Funding	100D	100D	200D
63.	Miscellaneous Improvements to Existing Intersections and Highway Facilities,	X98		
	Statewide miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety.			
	Land Acquisition	100	100	200
	Design	235	235	470
	Construction	1,815	1,815	3,630
	Total Funding	625D	625D	1,250D
		1,525N	1,525N	3,050N
64.	Land Transportation Planning, Statewide—Road use, road life, economic studies, highway studies, research and advance planning of federal-aid and non federal aid highway projects. Funds to be supplemented by item C-81 of Act 195, SLH 1975 and item C-51 of Act 226, SLH. 1976.	X99		
	Design	1,408	1,427	2,835
	Total Funding	908D	977D	1,885D
		500N	450N	950N

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F	FY M 1978-79 F	Total Biennium M 1977-79 F
<b>D. ENVIRONMENTAL PROTECTION</b>						
<b>POLLUTION CONTROL</b>						
Solids, Liquids, Gases, & Noise						
			HTH 840			
1.	Sewerage Construction Grants		Y01			
	Grants to County or State agencies for eligible water pollution control facilities conforming with the State WPC plan authorized by Act 118/73. State may make grants to finance eligible design and/or construction costs of projects receiving Federal grants. Unexpended balances in items A1 and A2, Act 68/71; item A1, Act 202/72; item D1, Act 218/74; and item D1, Act 226/76 shall be used for this purpose. (To be expended by DOH)					
	Design			1	1	2
	Construction			5,999	5,999	11,998
	Total Funding			6,000C	6,000C	12,000C
<b>PRESERVATION AND ENHANCEMENT</b>						
Forests and Open Spaces						
			LNR 402			
2.	Forest Fences		D04			
	Forest fences. Fences, for forest reserve and management unit boundary, Fence. Standards: 5 strands—barbed or no. 7 galv. wire, 7 wood posts buried 2.5 ft. fencing can produce emergency grazing land (drought), noxious plant control by controlled grazing, protection of forest where presence of livestock is detrimental. Project applies 100% to forests and open spaces.					

	Construction		50	31	81
	Total Funding		50C	31C	81C
3.	Outdoor Conservation Classroom				
	Keahua Arboretum	D14			
	Construct outdoor classroom prepare interpretative displays and lesson materials establish self-guiding nature walks and establishment examples of early polynesian plant introductions.				
	Design		15		15
	Construction		10		10
	Total Funding		25C	C	25C
	Coastal Areas	TRN 903			
4.	Haleiwa Beach Restoration, Oahu	130			
	Restoration of Haleiwa Beach, Oahu, by replenishment of sand, State required to replace sand on eroded beach areas.				
	Design		15		15
	Construction		65		65
	Total Funding		80C	C	80C
5.	Sand Island Shoreline Erosion				
	Control, Oahu	140			
	Shoreline protection and erosion control of the eastern edge of Sand Island. Possible Federal aid in the planning period is approximately \$405,000.				
	Design			15	15
	Construction			335	335
	Total Funding		C	350C	350C
E.	HEALTH				
	PHYSICAL HEALTH				
	Hospital Care				
	Hilo Hospital	HTH 211			
1.	Evaluation of Electrical Requirement—				
	Hilo Hospital	H09			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M O F	FY 1978-79 M O F	Total Biennium 1977-79 M O F
	Evaluation of electrical requirements in order to determine the margin of safety that exist for employees, patients and equipment. To also inspect and repair old electrical circuits and wiring.					
	Construction			400		400
	Total Funding			400C	C	400C
	Kohala Hospital		HTH 214			
2.	Kohala Hospital—Installation of Fire Sprinkle System		H12			
	For installation in laundry, linen room and maintenance workshop.					
	Use of galvanized pipes and approved sprinkling head. Pipes to be suspended from ceiling.					
	Construction			6		6
	Total Funding			6C	C	6C
3.	Kohala Hospital—Renovation of Therapy Bathroom		H13			
	Renovate, expand and modernize existing therapy bathroom. Remove existing wall of adjoining linen room and utilize entire floor area as therapy bathroom.					
	256 sq. ft.; ceramic tile flooring to 112 sq. ft. expanded area; relocation of plumbing.					
	Construction			5		5
	Total Funding			5C	C	5C
4.	Kohala Hospital—Relocation of Linen Room		H14			
	Relocation due to adjoining therapy bath-					

room being expanded into entire area of existing linen room.

195 sq. ft. floor area; hollow block exterior wall; cement slab floor.

Construction

Total Funding

Kula Hospital

HTH 223

7  
7C

C

7  
7C

5. Kula Sanatorium Modernization

D06

Correction of code violations and to modernize facility to conform to public health standards, phase I project—code violations completed. Phase II project—modernization project underway.

Design

Construction

Total Funding

Samuel Mahelona Memorial Hospital

HTH 232

C

183  
4,020  
4,203C

183  
4,020  
4,203C

6. Centralized Hospital Laundry

G05

Site preparation improvement and installation of one tumbler to replace existing tumblers. Unexpended funds from item E-7 of Act 218/74 may be used for this project. \$14 transferred in.

Construction

Total Funding

Maluhia Hospital

HTH 241

26  
26C

C

26  
26C

7. Maluhia Hospital—Automatic Door Closers

H04

Planning, purchasing and installing magnetic door closers in all patients' rooms connected to the automatic corridor system so as to close doors when the fire alarm is activated.

Design

Construction

Total Funding

5  
75  
80C

C

5  
75  
80C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
8.	Maluhia Hospital—Automatic Sprinklers Planning and installing automatic sprinklers throughout the hospital, to be connected to the existing system located only in storage rooms.		H05						
	Design			5				5	
	Construction			100				100	
	Total Funding			105C		C		105C	
	Leahi Hospital		HTH 242						
9.	Trotter Building Renovation Renovation to trotter building to enable building to be used for ICF or SNF purposes and at the same time qualify for participation in title XVIII and XIX programs. Building is only partially renovated and cannot be used in present condition.		C50						
	Design			60				60	
	Construction					700		700	
	Total Funding			60C		700C		760C	
10.	Leahi Hospital, Oahu Plans and construction for additions, renovations, and remodeling of medical and ancillary facilities, including landscaping, lighting and equipment.		Q02						
	Design			274				274	
	Construction			1				1	
	Total Funding			275C		C		275C	
11.	Leahi Hospital, Oahu Funds for the development of a facilities master plan for Leahi Hospital.		Q03						

	Design		200		200
	Total Funding		200C	C	200C
	Community Health Services				
	Drinking Water Quality	HTH 621			
12.	Drinking Water Program Grant for Maui County	W01			
	Planning, design, and construction for water systems to comply with the requirements of the safe drinking water Act, at 50% of the total eligible cost.				
	Design		664	I	665
	Construction		I	432	433
	Total Funding		665C	433C	1,098C
13.	Drinking Water Program Grant for the City and County of Honolulu	W02			
	Planning, design, and construction for water systems to comply with the requirements of the safe drinking water act, at 50% of the total eligible cost.				
	Design		34		34
	Construction		I		I
	Total Funding		35C	C	35C
14.	Drinking Water Program Grant for Hawaii County	W03			
	Planning, design, and construction for water systems to comply with the requirements of the safe drinking water act, at 50% of the total eligible cost.				
	Design		224	I	225
	Construction		I	1,034	1,035
	Total Funding		225C	1,035C	1,260C
15.	Drinking Water Program Grant for Kauai County	W04			
	Planning, design, and construction for water systems to comply with the requirements of the safe drinking water act, at 50% of the				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
	total eligible cost.								
	Design			54		1		55	
	Construction			1		264		265	
	Total Funding			55C		265C		320C	
	Overall Program Support								
	Public Health Nursing Services		HTH 902						
16.	Waipahu Health Bldg Air Conditioning And Parking		I20						
	Install air conditioning in existing bldg and additional parking.								
	Construction			100				100	
	Total Funding			100C		C		100C	
F.	SOCIAL PROBLEMS								
	ASSURED STANDARD OF LIVING								
	Housing Assistance								
	Private Housing								
	Augmentation								
	Housing Loans To Native Hawaiians		HHL 611						
1.	Panaewa Residential Subdivision		H21						
	Panaewa, Hawaii to build roads, install utilities and survey and stakfout for 120 residence lots at Panaewa, Hawaii in three increments of 40 each.								
	Construction					175		175	
	Total Funding			C		175C		175C	
2.	Waimanalo Residential Subdivision		H24						
	Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master								

	plan.			
	Design	132		132
	Construction		2,185	2,185
	Total Funding	132C	2,185C	2,317C
3.	Nanakuli Road Improvements (Mauka) To improve and upgrade Mano, Kauwahi, Kawao, Pililaau and Haleiakala avenues to city and county standards approximately 9400 linear feet of roadway improvement, including sewers.	H29		
	Construction	1,535		1,535
	Total Funding	1,535C	C	1,535C
4.	Nanakuli Road Improvements (Makai) To improve and upgrade Pohakunui, Laumania, Keaulana, and Piliokahi avenues to city and county standards - approximately 4100 linear feet of roadway improvements, and install adequate offsite drainage facilities.	H31		
	Design	1		1
	Construction		1,350	1,350
	Total Funding	1C	1,350C	1,351C
5.	Paukukalo Residential Subdivision Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.	H33		
	Design	150		150
	Construction	750	750	1,500
	Total Funding	900C	750C	1,650C
6.	Kawaihae Residential Subdivision Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan for Kawaihae area.	H35		
	Design	50		50

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M O F	FY 1978-79 M O F	Total Biennium 1977-79 M O F
	Construction			200		200
	Total Funding			250C	C	250C
7.	Keaukaha Residential Subdivision		H36			
	Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.					
	Construction				300	300
	Total Funding			C	300C	300C
G.	FORMAL EDUCATION					
	LOWER EDUCATION					
	Instruction					
	Regular Instruction Program		EDN 105			
1.	Relocate and Construct Portable Classrooms		001			
	Relocation and construction of portables each school year to meet enrollment shifts among schools, consolidation of schools, unforeseen emergencies, and to provide temporary facilities while new schools are being planned and/or under construction. These funds are also for secondary schools.					
	Design			160	160	320
	Construction			995	1,045	2,040
	Total Funding			1,155C	1,205C	2,360C
2.	Minor Improvements, Development of Master Plans, Removal of Architectural Barriers.		002			
	Minor additions, renovations and improvement to buildings and school sites for					

student safety and health protection of property and to improve the educational program project adjustment fund for projects requiring supplemental funds due to price increases. These funds are also for secondary schools.

			25	25	50
			225	225	450
			250C	250C	500C
3.	Lump Sum-Minor Land Acquisition	003			
	Acquisition of small parcels of land abutting existing school sites which are needed for better location of buildings and to provide better access which were not foreseen in the original construction. These funds are also for secondary schools.				
	Land Acquisition		120	120	240
	Total Funding		120C	120C	240C
4.	Jefferson Elementary School—Playfield and Landscaping.	111001			
	Plans and construction of playfield improvements, landscaping, and demolition.				
	Design			17	17
	Total Funding		C	17C	17C
5.	Kaimuki High School—Music Building and Other Improvements	115001			
	Plans and construction of new music building and renovations and improvements of existing facilities.				
	Construction			250	250
	Total Funding		C	250C	250C
6.	Mililani Uka Elem, Oahu	216001			
	Plan and construct library				
	Design		27		27
	Construction			648	648
	Total Funding		27C	648C	675C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M F	FY 1978-79 M F	Total Biennium 1977-79 M F
7.	Moanalua High, Oahu	219002				
	Construct four science classroom building and plan and construct utility system.					
	Design			50		50
	Construction			557		557
	Total Funding			607C	C	607C
8.	Pearl Harbor Elem, Oahu	223003				
	Improve grds & facil. Improve drainage system and replace sewer system.					
	Design			20		20
	Construction				100	100
	Total Funding			20C	100C	120C
9.	Radford High, Oahu	226002				
	Plan and construct a team locker building. Funds to be supplemented from item F-65 of Act 155. SLH 1969.					
	Design				8	8
	Construction				307	307
	Total Funding			C	315C	315C
10.	Waialua High, Oahu	235001				
	Plan and construct industrial arts/practical arts building.					
	Construction				548	548
	Total Funding			C	548C	548C
11.	Mililani 4th Elem, Oahu	241001				
	Plan and construct sixteen classrooms.					
	Construction				270	270
	Total Funding			C	270C	270C

12.	Aliamanu Crater Elem, Oahu Ultimate site plan. Plan and construct 1st increment.	242004			
	Construction		2,116	557	2,673
	Total Funding		2,116C	557C	2,673C
13.	August Ahrens, E.S. Sewer assessment, ground and site improve- ments for sewer and drainage.	300001			
	Design		25		25
	Construction			135	135
	Total Funding		25C	135C	160C
14.	Campbell High School Renovation of industrial arts classrooms including equipment ground and site improvements.	302001			
	Design		50		50
	Construction			363	363
	Total Funding		50C	363C	413C
15.	Ewa E.S. Sewer assessment and construct sewer connections, ground and site improvements.	303001			
	Design		20		20
	Construction			142	142
	Total Funding		20C	142C	162C
16.	Ilima Intermediate School Plan and construct industrial arts class- rooms, arts and crafts classroom, ground and site improvements. Funds authorized in Act 195/75, item 22 and in Act 226/76, item 19 may be used for this project.	307001			
	Construction		90		90
	Total Funding		90C	C	90C
17.	Ilima Intermediate School Plan and construct music classroom, ground and site improvements in conjunction with renovation of existing building caused by	307002			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
	widening of Fort Weaver Road.								
	Design			30				30	
	Construction					200		200	
	Total Funding			30C		200C		230C	
18.	Iroquois Point E.S.	308001							
	Drainage, ground and site improvements.								
	Design			6				6	
	Construction			34				34	
	Total Funding			40C		C		40C	
19.	Waianae High	325002							
	Sewer assessment, connection of cesspool serviced buildings to sewer trunk lines, ground and site improvement.								
	Design			50				50	
	Construction					150		150	
	Total Funding			50C		150C		200C	
20.	Waianae Intermediate	326001							
	Plan and construct industrial education classrooms, renovations to existing industrial and practical arts classrooms and site improvements.								
	Design			31				31	
	Construction					450		450	
	Total Funding			31C		450C		481C	
21.	Waipahu High	330001							
	Plan and construct general and special classroom building with teacher's workroom, ground and site improvements.								
	Construction			458				458	

	Total Funding		458C	C	458C
22.	Waipahu High Plan and construct pedestrian under- and/or overpass to provide access to athletic field. Funds authorized by Act 218/74, item IE- 137 may be used for this purpose.	330002			
	Construction		200		200
	Total Funding		200C	C	200C
23.	Lualualei Uka E.S. Site selection, master planning and land acquisition.	333001			
	Land Acquisition			480	480
	Design		20		20
	Total Funding		20C	480C	500C
24.	Lualualei Uka E.S. Plan and construct 1st increment: 16 classrooms, portable admin., library, serving kitchen, health room, playfield, parking, ground and site improvements.	333002			
	Design			90	90
	Total Funding		C	90C	90C
25.	Nanakuli II E.S. Plans and construction for a 14 classroom building and ground and site improvements.	335002			
	Construction			979	979
	Total Funding		C	979C	979C
26.	Waianae II E.S. Site selection, master plan and land acquisition.	341001			
	Land Acquisition		480		480
	Design		30		30
	Total Funding		510C	C	510C
27.	Waianae II E.S. Plan and construct 1st increment: 16 class- rooms, portable admin library, health serving kitchen, playfield, parking ground	341002			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M F	FY 1978-79 M F	Total Biennium 1977-79 M F
	and site improvements.					
	Design			87		87
	Construction				1,137	1,137
	Total Funding			87C	1,137C	1,224C
28.	Kailua High School	412001				
	Redevelopment plan.					
	Design			40		40
	Total Funding			40C	C	40C
29.	Kalaheo High School	415001				
	Plan and construct athletic facilities and ground improvements.					
	Construction			1,421		1,421
	Total Funding			1,421C	C	1,421C
30.	Hilo High School Hilo, Hawaii	502002				
	Plans and construction for improvements including wood and metal shop, parking, the replacement of fire-damaged facilities and demolition of the old building.					
	Design			1		1
	Construction			2,403		2,403
	Total Funding			2,404C	C	2,404C
31.	Honokaa High & Elem School	507001				
	Hamakua, Hawaii					
	Plans and construction of industrial arts, wood shop and drafting classrooms, covered walkway, access road, equipment and appurtenances.					
	Construction			623		623
	Total Funding			623C	C	623C

32.	Kau High and Pahala Elem School Kau, Hawaii	511001			
	Plan and construct PE locker shower facility and PE classrooms, equipment and appur- tenances supplement to prior appropria- tions.				
	Construction		250		250
	Total Funding		250C	C	250C
33.	Konawaena Elem School North Kona, Hawaii	517002			
	Plans and construction of elementary play- ground and paved playcourts (4) supplement to prior appropriations.				
	Construction		165		165
	Total Funding		165C	C	165C
34.	Konawaena High & Inter School No. Kona, Hawaii	518001			
	Plans and construction of 5 classroom build- ing (4 regular, 1 arts & craft) covered walk way (75), workroom and toilets, equipment and appurtenances. Supplement to prior appropriations (Act 218/74 item-104 reduce scope to 5 classrooms).				
	Design		52		52
	Construction			567	567
	Total Funding		52C	567C	619C
35.	Naalehu Elem School, Kau, Hawaii	521001			
	Construction of elementary classroom building covered walkway: equipment and appurtenances. Supplement to prior appro- priations.				
	Construction		460		460
	Total Funding		460C	C	460C
36.	Pahoa High and Elem. School Puna, HI	523002			
	Plans and construction—elementary class- room bldg. toilets, workroom, covered				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F	FY M 1978-79 F	Total Biennium M 1977-79 F
	walkway: equipment and appurtenances, supplement to prior appropriation Act 226/76 item 9I E II F. Revise scope from 6 to 12 classrooms.					
	Construction			961		961
	Total Funding			961C	C	961C
37.	Pahoa High & Elem School					
	Puna, Hawaii	523003				
	Plans and construction of bus loading shelter, covered walk, parking (25) and driveway.					
	Design			20		20
	Construction				125	125
	Total Funding			20C	125C	145C
38.	Waiakea High School Hilo, Hawaii	525001				
	Plans and construction-phase IV secondary classroom building (Science 2, Business 2, Regular 4); electronic shop; agriculture tech units; covered walkway: equipment and appurtenances.					
	Construction			1,306		1,306
	Total Funding			1,306C	C	1,306C
39.	Keauhou-Kailua Elem School					
	Kona, Hawaii	532002				
	Plans and construction—Land clearing, increment 1 classroom building; play- ground; equipment and appurtenances; parking.					
	Design				76	76
	Total Funding			C	76C	76C

40.	Baldwin High School, Maui	600001			
	Plan and construct art classrooms.				
	Construction		295		295
	Total Funding		295C	C	295C
41.	Baldwin High School, Maui	600011			
	Redevelopment plans for the orderly				
	improvements of-existing facilities.				
	Design		40		40
	Total Funding		40C	C	40C
42.	Hana High and Elem School, Maui	602001			
	Plan and construct classrooms.				
	Construction		763		763
	Total Funding		763C	C	763C
43.	Iao School, Maui	603001			
	Plan and construct classroom building.				
	Construction		354		354
	Total Funding		354C	C	354C
44.	Kihei School, Maui	608001			
	Plan and construct 8 classrooms.				
	Construction		469		469
	Total Funding		469C	C	469C
45.	Kula Elem School, Maui	611001			
	Classroom building plan and construct.				
	Design		30		30
	Construction			374	374
	Total Funding		30C	374C	404C
46.	Lihikai School, Maui	614001			
	Supplementary funds for plans and con-				
	struction of classrooms.				
	Construction		442		442
	Total Funding		442C	C	442C
47.	Maui High School, Maui	616003			
	Plan and construct special language arts				
	center.				
	Design			38	38
	Total Funding		C	38C	38C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M O F	FY 1978-79 M O F	Total Biennium 1977-79 M O F
48.	Molokai High & Inter School, Molokai	618001				
	Supplementary appropriation for construction of industrial arts/agriculture facilities.					
	Design			8		8
	Construction			610		610
	Total Funding			618C	C	618C
49.	Molokai High & Inter School, Molokai	618002				
	Plan and construct playfield and parking.					
	Construction			155		155
	Total Funding			155C	C	155C
50.	Wailuku Elem School, Maui	623001				
	Supplement prior appropriation for construction of classroom building and land acquisition.					
	Land Acquisition			100		100
	Construction			527		527
	Total Funding			627C	C	627C
51.	Kapaa High and Inter	704001				
	Construct 13-classroom with teacher work center and toilets.					
	Design			70		70
	Construction				1,021	1,021
	Total Funding			70C	1,021C	1,091C
52.	Kekaha School	707002				
	Plan and construct 8-classroom building with teacher work center and toilets.					
	Design			56		56
	Construction				849	849
	Total Funding			56C	849C	905C

53.	Waimea High	712005				
	Plan and construct industrial art building to supplement prior appropriation.					
	Construction				1,000	1,000
	Total Funding		C		1,000C	1,000C
	Instructional Administration and Support					
	School Administration	EDN 203				
54.	Mililani Uka Elem, Oahu	216002				
	Plan and construct administration building.					
	Construction				293	293
	Total Funding		C		293C	293C
55.	Moanalua High, Oahu	219001				
	Plan and construct administration building.					
	Design				43	43
	Total Funding		C		43C	43C
56.	Waianae High	325001				
	Renovate and expand administrative facilities, ground and site improvements.					
	Construction				250	250
	Total Funding		C		250C	250C
57.	Keauhou —Kailua Elem North Kona, Hawaii	532001				
	Acquisition of lands and master planning.					
	Land Acquisition				400	400
	Total Funding		C		400C	400C
58.	Kalaheo School	702001				
	Plan and construct administration building including visitor parking and staff parking.					
	Design				19	19
	Total Funding		C		19C	19C
	Instructional Media	EDN 204				
59.	Pearl City High	321001				
	Plan and construct library ground and site improvements.					
	Construction				1,137	1,137
	Total Funding				1,137C	1,137C
					C	

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
60.	Laie Elementary, Oahu Plans and construct library. Construction Total Funding	420001					465 465C	465 465C	
61.	Waiahole Elem School, Oahu Demolition of old classrooms and administration building and conversion of classrooms to temporary administration and library facilities. Construction Total Funding	427001							
				165 165C			C	165 165C	
62.	Konawaena Elem School, S. Kona Hawaii Plan and construct elementary library facility supplement to prior appropriations equipment and appurtenances. Construction Total Funding	517001							
				160 160C			C	160 160C	
63.	Waiakea High School, Hilo, Hawaii Plans and construction—phase IV—library; parking; equipment and appurtenances; covered walkway. Construction Total Funding	525002					1,043 1,043C	1,043 1,043C	
	Student Activities		EDN 207				C		
64.	Waimea High Plan and construct physical education locker/shower and athletic lockers including 2—classrooms.	712003							

	Design			43		43
	Construction				582	582
	Total Funding			43C	582C	625C
	Institutional Administration and Support					
	District Administration		EDN 304			
65.	State and District Office	0006				
	Renovate existing school facilities for state					
	and district office use.					
	Design			25		25
	Construction			275		275
	Total Funding			300C	C	300C
	School Food Services		EDN 305			
66.	Aliamanu Crater El, Oahu	242001				
	Plan and construct kitchen/dining bldg.					
	Design			63		63
	Construction				863	863
	Total Funding			63C	863C	926C
67.	Kahuku High and Elementary, Oahu	410002				
	Plan and construct manufacturing kitchen					
	and dining room.					
	Construction			835		835
	Total Funding			835C	C	835C
68.	Pahoa High and Elem Pahoa, Hawaii	523001				
	Plans and construction of cafetorium,					
	covered walkway parking (50), equipment					
	and appurtenances, and renovation of old					
	cafeteria to classroom. Supplement to prior					
	appropriations.					
	Construction			175		175
	Total Funding			175C	C	175C
	Physical Plant Operations &					
	Maintenance —EDN		EDN 307			
69.	Waimea High	712004				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
	Plan and construct integrated utility system.								
	Design			42				42	
	Construction					304		304	
	Total Funding			42C		304C		346C	
	Public Service								
	Public Libraries		EDN 407						
70.	New State Library Central Facility Building		801001						
	Plan and construct new state library central facility building.								
	Construction					1,000		1,000	
	Total Funding			C		1,000C		1,000C	
	HIGHER EDUCATION								
	University of Hawaii, Manoa								
	Instruction -UOH, Manoa		UOH 101						
71.	Crawford Hall; Renovation and Modernization University of Hawaii, Manoa Campus.		023						
	Crawford Hall, renovation and modernization University of Hawaii, Manoa campus renovations to accommodate new classrooms and modernization to update obsolete facilities by improving lighting, natural ventilation and circulation.								
	Approximately 24,600 GSF.								
	Design					82		82	
	Total Funding			C		82C		82C	
72.	Improvements to Physical Education Facilities University of Hawaii, Manoa Campus.		028						
	Improvements to physical education facili-								

ties University of Hawaii, Manoa Campus. Incremental planning and construction of improvements to provide adequate outdoor facilities for the physical ed., intramurals, athletic and recreational programs.

	Design		26	26
	Construction		274	274
	Total Funding	C	300C	300C
73.	Medical School Development	039		
	Medical School development, University of Hawaii at Manoa development of facilities for a 4-year medical school. Facilities to be developed at Kuakini Hospital and at other community hospitals in accordance with affiliation agreements and federal grant requirements.			
	Design		28	28
	Construction	100	272	372
	Total Funding	128C	272C	400C
74.	Kuykendall Hall Air Conditioning			
	University of Hawaii, Manoa Campus	040		
	Kuykendall Hall air conditioning, University of Hawaii, Manoa Campus. Installation of air conditioning system to reduce noise levels in classrooms, including necessary renovations to ceilings and windows.			
	Construction		1,024	1,024
	Total Funding		1,024C	1,024C
75.	Hawaii Hall Renovations and Modernization, University of Hawaii, Manoa Campus	041		
	Refurbishing of facilities to meet current health and safety rules and regulations and current uses.			
	Approximately 22,000 ASF; 37,000 GSF			
	Design		115	115

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 O F	FY M 1978-79 O F	Total Biennium M 1977-79 O F
	Total Funding			C	115C	115C
76.	Swimming Pool Complex Completion University of Hawaii, Manoa Campus Completion of swimming pool complex, University of Hawaii, Manoa Campus. Plans and construction of locker-showers, offices, classroom - meeting room, training room, etc. to complete the state swimming pool complex.	049				
	Design			120		120
	Total Funding			120C	C	120C
77.	Law School Development University of Hawaii, Manoa Campus Law School Development, University of Hawaii, Manoa Campus. Construction of classrooms, seminar rooms, offices, library and other appurtenant facilities required by the law school. Approximately 52,600 ASF; 84,160 GSF.	052				
	Construction				6,971	6,971
	Total Funding			C	6,971C	6,971C
78.	Oceanographic and Marine Laboratory University of Hawaii, Manoa Campus Oceanographic and Marine Laboratory University of Hawaii, Manoa Campus Construction of offices, classrooms, labora- tories for the department of oceanography, dean of marine programs and sea grant college. Approximately 95,500 GSF.	113				

	Construction				5,366	5,366
	Total Funding			C	5,366C	5,366C
	Organized Research UOH, Manoa	UOH	102			
79.	Marine Expeditionary Center, Phase 1					
	University of Hawaii, Snug Harbor	116				
	Marine Expeditionary Center, completion of phase 1, University of Hawaii, Snug Harbor. Completion of the phase 1 site work and building, including purchase of furniture and equipment.					
	Construction			260		260
	Total Funding			260C	C	260C
80.	HIG Building, Structural Repairs					
	University of Hawaii, Manoa Campus	120				
	HIG Building Structural repairs, University of Hawaii, Manoa Campus.					
	Structural repairs to upgrade the Hawaii Institute of Geophysics building to meet building code requirements.					
	Design				20	20
	Construction				230	230
	Total Funding			C	250C	250C
81.	Mec---Core Storage Building					
	University of Hawaii, Snug Harbor	122				
	Marine Expeditionary Center, Core Storage Building, University of Hawaii, Snug Harbor					
	Construction of a core storage building to house cores presently stored at Keehi and those being transferred to the University from Eniwetok, and temporarily in Army Warehousing.					
	Construction			663		663
	Total Funding			663C	C	663C
82.	Mauna Kea Obs. Mid-Level Facilities, Phases 1 and 2.	123				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Total		
				FY	FY	Biennium
				1977-78	1978-79	1977-79
				M O F	M O F	M O F
	Mauna Kea Observatory, mid-level facilities, phases 1 and 2, University of Hawaii, Institute for Astronomy.					
	Plans and construction of site work, housing, office and laboratory facilities on the slopes of Mauna Kea to accommodate observatory personnel.					
	Design			62		62
	Construction				938	938
	Total Funding			62C	938C	1,000C
83.	HIMB, New Electrical System					
	University of Hawaii, Coconut Island	125				
	NEW Electrical system for HIMB facilities Coconut Island. Installation of underwater cables, transformer station, and re-wiring of HIMB facilities, to take care of expanding needs and replacement of old, deteriorating wiring.					
	Construction			600		600
	Total Funding			600C	C	600C
	Academic Support—UOH, Manoa		UOH 104			
84.	Sinclair Library Renovations					
	University of Hawaii, Manoa Campus	177				
	Sinclair Library Renovations, University of Hawaii, Manoa Campus					
	Renovations to Sinclair Library to expand library services for undergraduate students, expansion of existing library programs, and provide additional seating areas including furniture and equipment. Improvements to					

lighting, circulation and ventilation.

	Design		33		33
	Construction			300	300
	Total Funding		33C	300C	333C
	Institutional Support—UOH, Moana	UOH 106			
85.	Minor CIP Projects	240			
	Minor CIP projects, University of Hawaii, at Manoa				
	Planning, constructing and equipping of minor improvements, including the construction of new facilities as well as modifications to existing structures of the Manoa based programs. Improvements are necessary to provide more efficient utilization of existing spaces and to create new spaces for changing and expanding programs.				
	Design		29	29	58
	Construction		621	271	892
	Total Funding		650C	300C	950C
86.	General Utilities and Site Improvements	241			
	General utilities, roads and site improvements, University of Hawaii at Manoa				
	Incremental planning and construction of utilities, roads and site improvements on the Manoa Campus and Manoa based programs (research centers and other support areas).				
	Design		42	42	84
	Construction		458	458	916
	Total Funding		500C	500C	1,000C
87.	Land Acquisition, St. Francis Convent School	247			
	Acquisition of St. Francis Convent School lands in Manoa. Land area of 11.12 acres and approximately 83,000 sq. ft. of im-				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F	FY M 1978-79 F	Total Biennium M 1977-79 F
	provements.					
	Land Acquisition				2,000	2,000
	Total Funding				2,000C	2,000C
88.	Renovations for Hoshl and Other Code Requirements, University of Hawaii, Manoa	250				
	Modifications to existing facilities to meet OSHA & HOSHL rules and regulations and other building code requirements, including replacement of windows at the Hale Aloha Dormitory complex.					
	Design			30	45	75
	Construction			270	455	725
	Total Funding			300C	500C	800C
	University of Hawaii, Hilo					
	Instruction—UOH, Hilo		UOH 211			
89.	Classroom Building No. 4	303				
	Classroom Building No. 4					
	University of Hawaii at Hilo, Hilo College providing for plans and construction, furniture, and equipment for a classroom building to include language laboratories, audio-visual room and classrooms for social sciences and humanities.					
	Design			80		80
	Construction			220	310	530
	Total Funding			300C	310C	610C
90.	College of Agriculture Facilities	315				
	Construction of college of agriculture, UOH, Hilo campus.					

	Construction						100	100
	Total Funding				C		100C	100C
91.	Hawaii CC Relocation, Phase II, UOH Hilo	318						
	Hawaii CC relocation. Plans, construction, furniture and equipment for the incremental relocation of Hawaii Community College programs to the Hilo College Campus.							
	Design						240	240
	Total Funding				C		240C	240C
	Academic Support—UOH, Hilo		UOH	214				
92.	Learning Resources Center	385						
	Learning Resources Center							
	University of Hawaii at Hilo, Hilo College							
	Construction of a resources center including library, instructional resources, information systems, bookstore, and skills development facilities.							
	Approximately 165,000 GSF; 110,000 ASF							
	Construction						2,943	2,943
	Total Funding				C		2,943C	2,943C
	Institutional Support—UOH, Hilo		UOH	216				
93.	Minor CIP	432						
	Minor CIP							
	University of Hawaii at Hilo, Hilo College							
	Plans and construction of minor improvements, including construction of new facilities as well as modifications to existing facilities. Modification are necessary to make possible more efficient use of existing spaces and to create new classroom spaces to accommodate changes in programs.							
	Design					9		9
	Construction					91		91
	Total Funding				100C		C	100C
94.	General Utilities, Roads and Site Improvements	433						

## APPROPRIATIONS (\$1,000's)

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	General utilities, roads, and site improvements, University of Hawaii at Hilo, Hilo College.					
	Incremental construction of utilities for major projects, removal, demolition, or relocation of structures, connection of roadways to improve circulation and safety, and to improve various areas for maximum utilization of space.					
	Design			12	12	24
	Construction			138	138	276
	Total Funding			150C	150C	300C
	Honolulu Community College					
	Instruction—Honolulu Community College		UOH 301			
95.	Honolulu CC—Modernization and Renovation		A09			
	Modernization and renovation of existing facilities, Honolulu Community College. Plans, construction, furniture and equipment to modify, renovate and improve existing facilities to meet program requirements and provide for the expansion of the college programs.					
	Design				10	10
	Construction				90	90
	Total Funding			C	100C	100C
96.	Honolulu CC—Auto-Body Shop		A13			
	Auto-Body Shop—Honolulu Comm. Coll. Plans, construction, furniture and equipment for a building to provide shops, classrooms, offices and special facilities for					

the Auto-Body Repair program. Unexpended balances in Act 226, SLH 1976, item IVA-G-96 may be used for this purpose.

	Construction			306	306
	Total Funding		C	306C	306C
	Institutional Support—Honolulu CC	UOH	305		
97.	Honolulu CC-Site Development	A74			
	Site Development, Honolulu Community College. Demolition of existing facilities, clearing, grading, improvements to drainage and utilities, landscaping additional parking facilities, and service roadways, and outdoor physical education facilities.				
	Design			36	36
	Construction			389	389
	Total Funding			425C	425C
	Kapiolani Community College				
	Institutional Support—Kapiolani CC	UOH	315		
98.	Kapiolani CC-New Campus				
	Development	B04			
	New campus at Fort Ruger—Plans, construction, furniture and equipment for the development of a new campus. Development to consist of site development, science laboratories, classrooms, offices, learning - resources center, campus center, vocational and business education facilities, and physical education facilities.				
	Design			637	637
	Construction			1,500	1,500
	Total Funding			2,137C	2,137C
	Leeward Community College				
	Instruction—Leeward Community College	UOH	321		
99.	Leeward CC-Gen. Instructional Fac. J-2	L04			
	General instructional facilities J-2, Leeward Comm. Coll. plans, construction, furniture				

## APPROPRIATIONS (\$1,000's)

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	and equipment for building J-2. Approximate area 22000 sq. ft.					
	Design			150		150
	Total Funding			150C	C	150C
100.	Leeward Comm. Coll. Renovations of Exist Fa.		L05			
	Renovations of existing facilities, Leeward Community College conversion, modifications, renovations, and improvements to facilities.					
	Design				10	10
	Construction				90	90
	Total Funding			C	100C	100C
101.	Leeward CC-Engr. Trades Bldg. D-3		L06			
	Supplemental appropriations for the plans construction, furniture and equipment to provide shops, laboratories, classrooms for the vocational education programs.					
	Construction			370		370
	Total Funding			370C	C	370C
	Maui Community College					
	Student Svices—Maui Community College		UOH 504			
102.	Maui Community College—Student Housing		M63			
	Plans, construction and furnishing for approximately 120-bed student housing complex.					
	Construction			750		750
	Total Funding			750C	C	750C

	Institutional Support—Maui Community College	UOH	595			
103.	Maui CC—Minor Capital Improvements	M50				
	Minor capital improvements—Maui Community College plans and construction furniture and equipment for new construction and modifications and improvements to existing facilities.					
	Design		10	10	20	
	Construction		90	90	180	
	Total Funding		100C	100C	200C	
104.	Maui CC- Site Development	M75				
	Site development—Maui Community College clearing, grading and landscaping of undeveloped lands, including additional parking, roadways, lighting, utilities and improvements to Kahului Beach Road.					
	Design		10		10	
	Construction		240		240	
	Total Funding		250C	C	250C	
	Kauai Community College					
	Instruction—Kauai Community College	UOH	601			
105.	Kauai CC- Instructional Facilities	K06				
	Kauai Community College—Instructional facilities plans and incremental construction of instructional facilities, including classrooms, special classroom laboratories, shops, offices, support facilities, furniture and equipment for the new campus at Puhi.					
	Design		50		50	
	Construction		350		350	
	Total Funding		400C	C	400C	
	Institutional Support—Kauai CC	UOH	605			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F	FY M 1978-79 F	Total Biennium M 1977-79 F
106.	Kauai CC—Site Development		K81			
	Kauai Community College—site development plans and incremental construction for the development of the new campus, including clearing, grading, utilities, roadways, parking, landscaping and athletic fields.					
	Design			40		40
	Construction			460		460
	Total Funding			500C	C	500C
<b>H. CULTURE AND RECREATION</b>						
<b>CULTURAL ACTIVITIES</b>						
Collections, Historical Sites and Studies						
Hawaii Public Broadcasting						
			REG 701			
1	Feasibility Study and Plans for Modifying Studio Production Facilities		RT5			
	Commission a design study and architectural plans to determine feasibility of adding a small second studio to increase efficiency and economy of local production activities.					
	Design			25		25
	Total Funding			25C	C	25C
2	Extend Statewide Public Television Transmission Coverage		RT46			
	Extend statewide public television transmission by installing translators on islands of Oahu, Hawaii					

and Kauai.

Design	25		25
Construction	787		787
Total Funding	278C	C	278C
	534N	N	534N

LNR — Historical & Archaeological Places LNR 801

- 3 Iolani Palace Restoration F11  
Incremental research, planning, preservation, restoration and interpretation of Iolani Palace, barracks, grounds, and appurtenances as a historic restoration complex.

Design	5		5
Construction	495	150	645
Total Funding	500C	150C	650C

- 4 Russian Fort F12  
Restoration of Fort Elizabeth, a national historical landmark portraying a Russian episode in Hawaii's history. Incremental planning and research, stabilization, restoration, construction and interpretive features including public access and use of facilities.

Design	100		100
Construction		150	150
Total Funding	100C	150C	250C

- 5 Lapakahi North Kohala State Park Complex F13  
Land acquisition, planning, research, and incremental development of the North Kohala archaeological and historic sites. Includes Lapakahi, the second most important archaeological area in the state, offering an opportunity for public interpretation of early Hawaiian fishing & farm system. Lapakahi to also be orientation center for King

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M O F 1977-78	FY M O F 1978-79	Total Biennium M O F 1977-79
	Kamchamcha's birth place, Heiau & other features in the area.					
	Land Acquisition			200	300	500
	Design			100	100	200
	Construction			150		150
	Total Funding			450C	400C	850C
6	Kealakekua Bay		F14			
	Incremental acquisition, planning and research for a major park comprising the most important historic and archaeologic place in the entire state. Planning and research will be followed by park development, continued research and interpretive facilities. The project is timed so that the key facilities will be in operation by 1978 the 200th anniversary of Captain Cook's landing.					
	Land Acquisition			500	500	1,000
	Design			150	140	290
	Total Funding			650C	640C	1,290C
7	Royal Mausoleum—Nuuanu Petroglyphs		F15			
	FY 1971-72 renovation of chapel and other improvements at Royal Mausoleum State Monument.					
	FY 1975-80 acquisition of additional land for public access and some archaeological features. Plans and research of site including interpretation of historic and archaeologic values in Nuuanu Valley.					

	Land Acquisition		100	100
	Design		150	150
	Total Funding	C	250C	250C
8	<p>Ililiopae Heiau F16</p> <p>Large, spectacular heiau with scenic views of nearby fishponds, access road, and parking required as well as some landscaping and picnic facilities. Trail hub park for Wailau Trail.</p>			
	Land Acquisition		100	100
	Total Funding	C	100C	100C
9	<p>State Capitol F18</p> <p>Landscaping, including replacement of sprinkler system and lawn improvement.</p>			
	Design	15		15
	Construction	180		180
	Total Funding	195C	C	195C
10	<p>Washington Place F25</p> <p>Replace existing equipment shed. Screen rubbish barrels. Replace-repair front sidewalk. Eventually an interpretive program should be developed. The responsibilities of this project are currently limited to the grounds.</p>			
	Design	10		10
	Construction	100		100
	Total Funding	110C	C	110C
11	<p>Heeia Fishpond F27</p> <p>Acquisition of Heeia Fishpond and Matson Point for an educational/cultural center.</p>			
	Land Acquisition		710	710

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78		FY 1978-79		Total Biennium 1977-79	
				M	F	M	F	M	F
	Design			150		160		310	
	Total Funding			150C		870C		1,020C	
12	Kamehameha Post Office Restoration		H12						
	Preservation and restoration with interior alteration and modification.								
	Construction					300		300	
	Total Funding				C	300C		300C	
13	Hale Pali (Printing House) Restoration		H13						
	Preservation and restoration with replacement of rotted timbers and repointing of masonry.								
	Construction					100		100	
	Total Funding				C	100C		100C	
	Other Natural Features		LNR 803						
14	Iao Valley State Park		F32						
	Incremental development per master plan.								
	Construction			70				70	
	Total Funding			70C		C		70C	
15	Lava Tree State Monument		F34						
	Land acquisition to protect the integrity of the existing park from probable urban encroachment. Replace restroom. Install water system and generally refurbish park and interpretive program.								

	Design		10	10
	Total Funding	C	10C	10C
16	Diamond Head	F37		
	Master plan of this existing park. Anticipated improvements may include trail development, parking, landscaping and an interpretive program. Construction of restroom and other immediate needs.			
	Design	30		30
	Construction		350	350
	Total Funding	30C	350C	380C
17	Waimea Canyon State Park	F39		
	Interpretive program. Expansion of lookout and trail development. Master plan.			
	Design	60		60
	Total Funding	60C	C	60C
	RECREATIONAL ACTIVITIES			
	Outdoor Activities			
	Inland-Based Activities	LNR 804		
18	Hawaii Game Management Facilities	C02		
	Incremental development of game management facilities including construction of hunter access roads, game water units, game range improvements, exclosures, hunter facilities, signs and markers.			
	Construction	25		25
	Total Funding	25C	C	25C
19	Forest Trails	D02		
	Forest trails. Trails are constructed, on an incremental basis, primarily by forestry with summer			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M		FY M		Total Biennium M	
				1977-78	O F	1978-79	O F	1977-79	O F
	students. Trails are at least 2 feet wide and cleared for easy hiking. Trails provide remote outdoor recreation including hunting, fire and pest control access, and occasionally route for rescue operations. Breakdown by program: other inland-based outdoor activities—75%, forests and open spaces 25%.								
	Land Acquisition			40				40	
	Design			4				4	
	Construction			27		12		39	
	Total Funding			71C		12C		83C	
20	Forest Trail Shelters		D03						
	Trail shelters. Trail shelters are constructed, on an incremental basis, primarily by forestry with summer students. Shelter units are open sides, 12 X 16 feet fiberglass roof with a table, 2 benches, and a pit toilet. Units are purchased prefabricated. Shelters are for wilderness picnic, hikers' rest stops, campsite for trail maintenance crew. Breakdown by programs: forest recreation—90%, forests & open spaces 10%.								
	Construction			36		12		48	
	Total Funding			36C		12C		48C	
21	Kokee State Park		F46						
	Continued park development and replacement of older facilities.								

	Design		50	15	65
	Construction		250		250
	Total Funding		300C	15C	315C
22	Keaiwa Heiau State Recreation Area	F48			
	Improvements, and repairs to this existing park, including new roofs, replace entrance gate, camp-ground drainage and rubbish storage area. Develop a simple interpretive display for the heiau.				
	Construction			60	60
	Total Funding		C	60C	60C
23	Wailua Cove	F49			
	Develop an outstanding scenic park with several waterfalls, and lush vegetation in a coastal setting. The area contains important historic and biologic values as well. The site contains about 120 acres of private land, largely undevelopable plus about 110 acres of state owned land. Initial funding is proposed for land acquisition of key areas research of important values to be preserved and park plans.				
	Land Acquisition			140	140
	Total Funding		C	140C	140C
24	Kalopa State Recreation Area	F53			
	Construction of camp grounds, vacation cabins and caretaker's cabin also roads to park.				
	Design			10	10
	Total Funding		C	10C	10C
25	Wailua River State Park	F54			
	Land acquisition of inholdings. Archaeological-biological research, development of interpretive program and facilities according to master plan.				

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 O F	FY M 1978-79 O F	Total Biennium M 1977-79 O F
	Land Acquisition				300	300
	Design				50	50
	Total Funding			C	350C	350C
26	Kahana Valley State Park		F57			
	Incremental development including historic restoration, water features, and other recreation and cultural and heritage opportunities per master plan.					
	Design			25	50	75
	Construction			250		250
	Total Funding			275C	50C	325C
27	Waimanalo Foothills State Recreation Area		F62			
	Plans for development of system of hiking and riding trails with small trailhead parks with picnicking facilities incremental development and interpretation of natural and historical values.					
	Design				10	10
	Total Funding			C	10C	10C
28	Queens Bath Kalapana Area		F65			
	Land acquisition and first phase development of this coastal-archaeological area.					
	Design				40	40
	Total Funding			C	40C	40C

29	Manuka State Wayside Interpretive program for existing Wayside Park with a plant collection in a Kipuka. Develop a new water system and restroom.	F69			
	Design		20	20	
	Total Funding	C	20C	20C	
30	Salt Lake District Park Land acquisition of TMK 1-1-59-05 for a com- munity park, development to be undertaken by the county.	H46			
	Land Acquisition	1,000	1,000	2,000	
	Total Funding	1,000C	1,000C	2,000C	
31	Kona Airport Park Incremental design and construction for shoreline park development as determined by park planning now underway.	H47			
	Design	50		50	
	Construction		550	550	
	Total Funding	50C	550C	600C	
	DOT—Ocean Based Activities	TRN 801			
32	Waianae Boat Harbor Oahu Incremental development of a new all weather marina in the area adjacent to Waianae Regional Park, consisting of dredging entrance channel and berthing areas and construction of breakwater, groin, rockwall, mooring, shore facilities and other improvements. Possible Federal aid anticipated in the planning period is approximately \$2,818,000.	O50			
	Design	20	130	150	
	Construction	80	870	950	
	Total Funding	100D	1,000D	1,100D	

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
33	Statewide Improvements to Boating Fac.		01S						
	Improvements to existing boat harbors and boat refuge areas. Including land acquisition and studies of possible new sites.								
	Design			10		10		20	
	Construction			40		40		80	
	Total Funding			50D		50D		100D	
34	Statewide Sewage System Improv to Boats Fac		02S						
	Study and implementation of a statewide sewage system for recreational harbors and boating facilities. Implementation costs are dependent upon study findings and recommendations.								
	Design					5		5	
	Construction					22		22	
	Total Funding			D		27D		27D	
35	Statewide Boat Launching Fac. Improv.		03S						
	FY77-Mics. Statewide Improv. to Boat Launch. Fac. Includ. Waimanalo, Barbers Pt., South Kona, Kihei, Keaukaha and Milolii. & construction at Nawiliwili & Mala. Beyond FY77-design & construction of boat launch fac. at Waimanalo, Barbers Pt., S. Kona, Kihei, Waianae, Hanalei, Kawaihae, Sand Is. Pearl Harbor, Keaukaha, Kailua, Oahu N. Shore, E. Molokai, Puna, Ka'u, La Perouse, Keehi Lagoon, Kikiaola, Heeia-Kea, Kaunakakai.								

	Design	70	100	170
	Construction	780	550	1,330
	Total Funding	850C	650C	1,500C
36	<b>Kawaihae Boat Harbor Hawaii</b>	06H		
	Planning and incremental construction of a boat harbor offshore from the existing coral stockpile, including dredging, protective structures, moorings and shore facilities and other improvements. Possible Federal aid anticipated in the planning period is approximately \$832,000.			
	Design		138	138
	Construction		859	859
	Total Funding	C	708C	708C
		D	289D	289D
	LNR — Ocean Based Activities	LNR	805	
37	<b>Waimanalo Bay State Recreation Area</b>	F71		
	Incremental development of beach park and camping facilities including landscaping.			
	Construction	230		230
	Total Funding	230N	N	230N
38	<b>Makua-Kaena Point State Park</b>	F72		
	Incremental acquisition of private lands, development of beach parks from Makua to Mokuleia. Also includes funds for temporary management of shoreline areas to control existing public use.			
	Land Acquisition	500		500
	Total Funding	500C	C	500C
39	<b>Makena-Laperouse State Park</b>	F73		
	Incremental acquisition of land and development of master plan. Protection of archaeological and biological features. Eventual expansion of the park			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 O F	FY M 1978-79 O F	Total Biennium M 1977-79 O F
	to interpret these features and expand recreation opportunities.					
	Land Acquisition			800	800	1,600
	Design			25	25	50
	Construction				510	510
	Total Funding			825C	1,335C	2,160C
40	Haena Beach State Park		F74			
	Incremental acquisition of land and incremental development as overnight campground, picnic area, swimming beach, hiking trails. Development to be low density and rustic so as not to detract from values of site. Sufficient parking for hikers.					
	Design			100	40	140
	Construction				400	400
	Total Funding			100C	440C	540C
41	Hapuna Beach State Park		F75			
	Plans and construction, including acquisition of land to supplement prior appropriations.					
	Land Acquisition				500	500
	Construction			300		300
	Total Funding			300C	500C	800C
42	Wailua River State Park (Lydgate)		F76			
	Develop an additional 25 acres for camping on state lands recently designated for park purposes.					
	Design			20		20

	Construction		250	250
	Total Funding	20C	250C	270C
43	MacKenzie State Park	F77		
	Expansion of existing park into adjoining state lands and private land, development of a swimming beach, picnic, and camping.			
	Design		30	30
	Total Funding	C	30C	30C
44	Na Pali Coast State Park	F80		
	Provision of camping, picnicking and hiking facilities, protection and interpretation of historic and archaeological sites, management facilities for wilderness type park.			
	Land Acquisition	50	50	100
	Design	10	10	20
	Construction		90	90
	Total Funding	60C	150C	210C
45	Olowalu-Kaanapali Wayside & Beautification	F81		
	Incremental development of wayside parks and beautification of scenic highway from Olowalu to Kaanapali. Existing parks include Wahekuli and Laaniopoko waysides.			
	Design		15	15
	Total Funding	C	15C	15C
46	West Maui State Park Complex	F84		
	Acquisition of Honolua, Windmill and Honokahau beaches and intervening shore and recreation back-up areas. Eventual expansion to include all state owned and some private, non-cultivated lands makai of the highway from Honolua to Kahakuloa. Development for preservation and use			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78	M O F	FY 1978-79	M O F	Total Biennium 1977-79	M O F
	of scenic, historic and recreation resources.								
	Design					100		100	
	Total Funding			C		100C		100C	
47	Aina Moana State Recreation Area		F85						
	Improvements to existing park including additional landscaping. Improve beach drainage, repair sea wall and improve shower drainage.								
	Design			15				15	
	Construction					150		150	
	Total Funding			15C		150C		165C	
48	Ukumehame State Park		F87						
	Planning and construction of Wayside Beach Park, to be followed by planning and development of a major beach park as needed on this undeveloped state land.								
	Design			15				15	
	Construction					150		150	
	Total Funding			15C		150C		165C	
49	Kaiaka Point		F88						
	Land acquisition and development of beach park at Kaiaka point, Haleiwa, Oahu master planning.								
	Design			40				40	
	Construction			500				500	
	Total Funding			540C			C	540C	

50	Malaekahana Beach Park Planning funds for refining or amending master plan, pre-land acquisition studies, research, interpretive planning and studies, development design and construction as determined by master plan.	H70			
	Design		50		50
	Construction		600		600
	Total Funding		650C	C	650C
	Spectator Events and Shows	BUF 889			
51	Drainage Improvements Drainage improvements to seat plates and runways.	B12			
	Design		27		27
	Construction		263		263
	Total Funding		290C	C	290C
52	Improvements to Aisles and Stairways Safety improvements to aisles and stairways at the Aloha Stadium.	B13			
	Design		10		10
	Construction		107		107
	Total Funding		117C	C	117C
53	Improvements to Movement System Waterproof of transporters and enclosures for grippers.	B14			
	Design		15		15
	Construction		93		93
	Total Funding		108C	C	108C
54	Stadium Improvements Improvements to security fence and maintenance	B16			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M		FY M		Total Biennium M	
				1977-78	O F	1978-79	O F	1977-79	O F
	area.								
	Design			20				20	
	Construction			115				115	
	Total Funding			135C		C		135C	
55	Air Compressor for Movement System		B17						
	Additional air compressor for movement system at Aloha Stadium.								
	Design					30		30	
	Construction					415		415	
	Total Funding			C		445C		445C	
56	Landscaping and Other Improvements		B18						
	Landscaping and sprinklers.								
	Design					16		16	
	Construction					150		150	
	Total Funding			C		166C		166C	
	Overall Program Support for Culture & Rec								
	LNR — General Admin for Culture and Recreation		LNR 809						
57	Statewide Resources Development Program		F01						
	Preliminary development of plans for recreational and scenic land, water and underwater resources of the state, including evaluation and use of existing and potential park resources; plans for acquisition, and development of a state park system.								

	Design	50	50	100
	Total Funding	50C	50C	100C
58	Statewide Interpretive Planning	F02		
	There is no interpretive program for existing state parks. Historic-archaeologic projects underway involve major interpretive programs. These projects should be coordinated. Other state park historic and natural features can be interpreted but these features must be evaluated to determine the need and priority for interpretation.			
	Design		40	40
	Construction		10	10
	Total Funding	C	50C	50C

59	Hilo Baseyard	F04		
	Plans and construction for a baseyard and storage facility.			
	Construction	100		100
	Total Funding	100C	C	100C

## I. PUBLIC SAFETY

### SAFETY FROM PHYSICAL DISASTERS

#### Amelioration of Physical Disasters

I	Army National Guard Armory, Pahala, Hawaii	A18	DEF	110
	Planning and construction of a special designed armory facility of permanent steel and masonry type construction, and including all utilities, access road, parking areas, security fencing, and other supporting features.			

	Design	15		15
	Construction	125		125
	Total Funding	56C	C	56C
		84N	N	84N

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78		FY 1978-79		Total Biennium 1977-79	
				M	F	M	F	M	F
2	Army National Guard Armory, Kohala, Hawaii Planning and construction of a special designed armory facility of permanent steel and masonry type construction, containing approximately 7,500 square feet, and including all utilities, access road, parking areas, security fencing, and other supporting features.		A19						
	Design			15				15	
	Construction			150				150	
	Total Funding			66C		C		66C	
				99N		N		99N	
3	Addition to National Guard Armory, Honolulu Planning and construction of an addition to the existing brigade armory at 22nd Avenue, Honolulu. Addition will be permanent masonry construction and including all utilities and other supporting items required to complete the facility for occupancy.		A21						
	Construction			102				102	
	Total Funding			102C		C		102C	
4	Waiawa Army National Guard Armory Addition Planning and construction of an addition to the existing Waiawa armory at Pearl City, Hawaii. Addition will be of permanent masonry construction, including all utilities, access road, parking areas, fencing, and other supporting features		A25						

required to complete the facility for occupancy.

	Design	33		33
	Construction	333		333
	Total Funding	155C	C	155C
		211N	N	211N
5	Replacement of Disaster Warning Sirens	C12		
	Incremental replacement of civil defense disaster warning sirens, statewide, worn out and unserviceable due to age, use and exposure. This is a continuing program from year to year. Federal matching funds are reimbursable to the state.			
	Construction	56	62	118
	Total Funding	28C	31C	59C
		28N	31N	59N
6	Additional Disaster Warning Sirens	C13		
	Incremental installation of additional civil defense disaster warning sirens, statewide, to expand the coverage of warning system to keep pace with new developments. Growth of communities and population shifts. This is a continuing program from year to year. Federal matching funds will be reimbursed to the state.			
	Construction	64	70	134
	Total Funding	32C	35C	67C
		32N	35N	67N

## K. GOVERNMENT-WIDE SUPPORT

### EXEC DIRECTN, COORD, & POLICY DEVELOPMENT

Office of the Governor

GOV 100

- |   |   |     |
|---|---|-----|
| 1 | Project Adjustment Fund                             | G01 |
|   | To establish a contingency fund for project adjust- |     |

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY M 1977-78 F	FY M 1978-79 F	Total Biennium M 1977-79 F
	ment purposes subject to the provisions of the appropriations act (to be expended by the Office of the Governor).					
	Design			3,000	3,000	6,000
	Total Funding			3,000C	3,000C	6,000C
	Policy Development and Coordination					
	Land Use, Statewide Plan and Coordination		PED 103			
2	Comprehensive Planning—SCORP		ORI			
	State comprehensive outdoor recreation plan and revision program as a prerequisite for continual receipt of Federal funds for recreational projects.					
	Design			120		120
	Total Funding			60C	C	60C
				60N	N	60N
	GENERAL SERVICES					
	Property Management					
	Public Lands Management		LNR 101			
3	Sand Island		E07			
	Ongoing project. Design being prepared for park and industrial complex. Prior years include consultant services and soil study. Engineering drawings in preparation for access parkway to bid in calendar 1976. Design for closed and lined box drain across foreign trade zone 1976-77; construction 1976-77.					

	Design	70		70
	Construction		2,500	2,500
	Total Funding	70C	2,500C	2,570C
4	Nawiliwili Coral Fill	E20		
	Design contract in preparation. DOT constructing small boat harbor in part of fill area. To be completed August 1974. Industrial subdivision to be developed FY 77-78.			
	Construction	1,560		1,560
	Total Funding	1,560D	D	1,560D
	Facilities Construction and Maintenance			
	Construction	AGS 221		
5	Vineyard Street Garage	A18		
	A parking facility for the mauka portion of the state capitol complex.			
	Construction		3,022	3,022
	Total Funding	D	3,022D	3,022D
6	Kona Multi-Agency Maint. and Svc. Facil.	A23		
	Multi-agency maintenance and service facility in Kona to house various state agencies.			
	Land Acquisition	48		48
	Design	82		82
	Construction		1,369	1,369
	Total Funding	130C	1,369C	1,499C
7	Kaneohe State Office Bldg.	A37		
	A new site and state office building to provide office space for various state agencies.			

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY 1977-78 M O F	FY 1978-79 M O F	Total Biennium 1977-79 M O F
	Land Acquisition			415		415
	Construction				3,152	3,152
	Total Funding			415C	3,152C	3,567C
8	Kaunakakai Office Building and Land Acq. New state office building to provide space for various state agencies in the Kaunakakai Civic Center.	A39				
	Design			90		90
	Construction				110	110
	Total Funding			90C	110C	200C
9	New State Office Bldg. No. 2 Des. and Const A new state office building in the capitol complex.	A40				
	Design			37	209	246
	Construction			6,833	1,235	8,068
	Total Funding			6,870C	1,444C	8,314C
10	Wahiawa Civic Center, Oahu Expansion of the existing civic center with a new state office building to provide space for various state agencies.	A42				
	Land Acquisition			195		195
	Construction				2,044	2,044
	Total Funding			195C	2,044C	2,239C
11	Honokaa Site Development & Landscaping Site improvements and landscaping.	A49				

	Design	5		5
	Construction	38		38
	Total Funding	43C	C	43C
12	New Makai Parking Garage Planning, land acquisition, design and construction of a parking structure.	A56		
	Design	162		162
	Construction	2,464		2,464
	Total Funding	162C	C	162C
		2,464D	D	2,464D
13	Waiialua-Haleiwa Civic Center A civic center in the Waiialua-Haleiwa area to house various state agencies including a new district court.	A68		
	Land Acquisition	297		297
	Design	50		50
	Construction		619	619
	Total Funding	347C	619C	966C
14	Makawao-Paia Civic Center A new site and state office building to accommodate various state agencies.	A78		
	Land Acquisition		3	3
	Design		6	6
	Total Funding	C	9C	9C
15	Remodeling State Office Spaces Remodeling and upgrading state office spaces, statewide.	A91		
	Design	43	47	90
	Construction	216	235	451
	Total Funding	259C	282C	541C

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	FY	M	FY	M	Total
				1977-78	F	1978-79	F	Biennium 1977-79
16	Advance Planning, Statewide To prepare reports such as system development, project development, site selection, state capitol complex policy committee, staff study, CIP assist- ance, building inventory, state capitol complex plan review, office space inventory, office space layout, analysis of lease request, analysis of office space request in state buildings and other planning projects.	A92						
	Design			100		100		200
	Total Funding			100C		100C		200C
17	Renovation of Kamamalu Bldg Renovation for existing &, new office space occu- pancies.	B04						
	Design			46				46
	Construction					413		413
	Total Funding			46C		413C		459C
18	State Capitol Complex Landscaping and Site Improvements Landscaping and general site improvements within the state capitol complex.	B05						
	Design			100				100
	Construction			400				400
	Total Funding			500C		C		500C
19	North Kona Civic Center A civic center in the North Kona area to house	B14						

various state agencies.

	Design		92	92
	Total Funding	C	92C	92C
20	Renovation of Kinau Hale	B16		
	Renovate Kinau Hale to improve building systems and office layouts.			
	Design	38		38
	Construction		297	297
	Total Funding	38C	297C	335C
21	State Capitol Air Condition System Improve	B17		
	Plan and construct a cooling tower to eliminate the existing well-water system.			
	Design		63	63
	Total Funding	C	63C	63C
22	Waipahu Civic Center	B18		
	A civic center in the Waipahu area to house various state agencies.			
	Design		129	129
	Total Funding	C	129C	129C
23	Waianae Civic Center	B22		
	A new state office building to house various state agencies.			
	Design		111	111
	Total Funding	C	111C	111C

SECTION 87. Section 88, Act 195, Session Laws of Hawaii 1975, is amended by modifying the scope or expenditure pattern of Item B-1 enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in Section 88, Act 195, Session Laws of Hawaii 1975, but not listed below. The Act 195 projects and the modifications are as follows:

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID		APPROPRIATIONS (\$1,000's)					
			Org.	No.	FY 1975-1976	C O D E	FY 1976-1977	C O D E	FY 1975-1977	C O D E
" 1	Extend sheltered workshop To provide sheltered employment to 100 severely disabled persons on Oahu at a site readily accessible by bus. Private contributions of funds may be used to supplement this project.	504								
	Land Acquisition				308				308	
	Design				29				29	
	Total Funding				337C		C		337C"	

SECTION 88. Section 88, Act 195, Session Laws of Hawaii 1975, is amended by modifying the scope or expenditure pattern of Item E-3 enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in Section 88, Act 195, Session Laws of Hawaii 1975, but not listed below. The Act 195 projects and the modifications are as follows:

Item No.	Program and Capital Project	Program ID		APPROPRIATIONS (\$1,000's)						
		Cap. Proj. No.	Org.	No.	FY 1975-1976		FY 1976-1977		FY 1975-1977	
						C O D E		C O D E		C O D E
	"Hospital Care									
	Hilo Hospital - Hospital Care		HTH	211						
3	Acute Care Center at Hilo Hospital	C28								

Planning and construction of a 150 bed acute care center at the Hilo Hospital.

Unexpended appropriations from Items II-H-2-1, II-H-2-2, II-H-2-3 of Section 91, Part VI, Act 195, Session Laws of Hawaii 1975, and Item II-H-2 of Section 91E, Part VIA, Act 226, Session Laws of Hawaii 1976 may be utilized for this project.

Design	247		247
Total Funding	247C	C	247C"

SECTION 89. Section 88A, Act 226, Session Laws of Hawaii 1976, is amended by modifying the scope or expenditure pattern of Item B-1 enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in Section 88A, Act 226, Session Laws of Hawaii 1976, but not listed below. The Act 226 projects and the modifications are as follows:

				APPROPRIATIONS (\$1,000's)						
Item No.	Program and Capital Project	Cap. Proj. No.	Program ID		FY	C O D E	FY	C O D E	FY	C O D E
			Org.	No.	1975-1976		1976-1977		1975-1977	
"1	Extended sheltered workshop To provide sheltered employment to 100 severely disabled persons on Oahu at a site readily accessible by bus. Private contributions of funds may be used to supplement this project.		504							
	Land Acquisition						204		204	
	Design						15		15	
	Construction						604		604	
	Total Funding						843C		843C"	

## PART V. SUPPLEMENTAL APPROPRIATIONS

SECTION 90. The following sums or so much thereof as may be necessary are appropriated to fund the programs as designated during the fiscal years 1977-78 and 1978-79; provided, that the designated expending agency authorized by each item in this section is authorized to delegate to other State agencies the expenditure of funds for such item when it is determined by such agency that it is more advantageous to do so:

	FY 1977-78	FY 1978-79	Total Biennium 1977-79
<b>ECONOMIC DEVELOPMENT</b>			
To provide for aquarium educational programs, including repair and maintenance of facilities associated with those programs (GOV 109)	50,000A	—	50,000A
To provide for ocean and marine educational programs (GOV 109)	55,000A	—	55,000A
To provide for the development and implementation of a statewide master plan for the diversified agricultural industry (AGR 192)	115,000A	—	115,000A
Grant-in-aid to the Hawaiian Sugar Planters' Association to support the Experiment Station research programs (AGR 192)	500,000A	—	500,000A
To provide for the support of production and marketing of Hawaiian agricultural commodities (GOV 102)	500,000A	—	500,000A
To provide for governmental support, including financial assistance, to strengthen and revitalize the transportation systems for Hawaiian agricultural commodities (GOV 102)	50,000A	—	50,000A
To provide for a review of agricultural cooperatives and associations in the State and to develop recommendations to promote their development (AGR 192)	50,000A	—	50,000A
To provide for a pilot project to use sewage water for agriculture, aquaculture and recharge of the groundwater (LNR 141)	100,000A	—	100,000A
To provide for research on new pesticides which will enhance the production of papaya (AGR 122)	15,000A	—	15,000A
To defray expenses involved in the sponsorship of the Pan Pacific Agricultural Conference in Hawaii (AGR 192)	30,000A	—	30,000A
To provide for the continuation of the Young Farmers Program (AGR 151)	50,000A	—	50,000A
To provide for a feasibility study relating to the establishment and operation of a centralized egg processing plant (PED 102)	30,000A	—	30,000A
To provide for a feasibility study on the establishment of a banana processing facility on Oahu (AGR 192)	62,000A	—	62,000A

To provide for a two-year feed and forage research program (AGR 192)	62,877A	—	62,877A
To provide funds for hypobaric container trials (AGR 192)	25,000A	—	25,000A
To provide funds for the continuation of manganese nodule research assessment (PED 102)	60,000A	—	60,000A
To provide funds for the tuna spotting program (GOV 109)	10,000A	—	10,000A
To provide funds for the maintenance of cattle vans (AGR 192)	5,000A	—	5,000A
To provide funds for the development of a seed corn variety suitable for cultivation in the tropics, provided further that the Department of Agriculture shall contract with the University of Hawaii College of Tropical Agriculture for the research (AGR 192)	100,000A	—	100,000A
To provide funds for a study of the growing and marketing of ginger root (PED 130)	70,000A	—	70,000A
To provide funds for the Pacific Basin Trade Center (PED 107)	150,000A	—	150,000A

#### EMPLOYMENT

To provide for the continued operations of the Kalihi-Palama Immigrant Services Center (GOV 803)	63,000A	—	63,000A
To provide for a pre-embarkation orientation pilot project as an informational program for prospective immigrants (GOV 803)	50,000A	—	50,000A
To provide funds for a brochure on record keeping and bookkeeping requirements on small businesses (LBR 902)	5,000A	—	5,000A
To provide funds for the Leeward Immigration Services Center (GOV 803)	7,000A	—	7,000A

#### ENVIRONMENTAL PROTECTION

To provide funds for a clidemia control program (LNR 402)	25,000A	—	25,000A
Grant-in-aid to the Citizens Against Noise for the preparation of a public interest pamphlet on recent noise codes (HTH 849)	3,800A	—	3,800A

#### HEALTH

To provide for the expansion of the school health services program (HTH 191)	512,088A	—	512,088A
To provide for the continuation of the Vision and Hearing Program in public, private and parochial schools (HTH 180)	251,260A	—	251,260A

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To provide for grants-in-aid to the following alcoholism programs: Hawaii Alcoholism Foundation, SIHWH; Hawaii Committee on Alcoholism; Hina Mauka/HSB; Lanakila Rehab; St. Francis Hospital Halfway House; Salvation Army AFT; Salvation Army 806 Social Services; Kauai Outreach; and, Big Island Council on Addiction (HTH 401)	539,870A	—	539,870A
To provide for grants-in-aid to the following drug abuse programs: Addiction Treatment Facility, Salvation Army; Alternatives for Youth (KP YMCA); Awareness House; DASH; Habilitat; Hale O'Ulu; Kauai Outreach; Maui No Ka Oi; Palama Settlement; Teen Challenge; Waianae Rap Center; and YMCA Detached Counselors (HTH 401)	896,178A	—	896,178A
Grant-in-aid to Kauaikeolani Children's Hospital for the continued operation of the Poison Information Center (HTH 801)	65,000A	—	65,000A
To provide for the continued operation of the Sex Abuse Treatment Center for medical, social and legal services for rape victims (HTH 495)	200,000A	—	200,000A
To install a recompression chamber at Kauai Veterans Memorial Hospital (HTH 231)	20,000A	—	20,000A
Grant-in-aid to Kahuku Hospital for operating expenses (SUB 601)	450,000A	—	450,000A
To provide a grant-in-aid to Molokai General Hospital (SUB 601)	230,000A	—	230,000A
To provide a grant-in-aid for the Halfway House for Mental Health in Hilo (HTH 401)	50,000A	—	50,000A
To provide a grant-in-aid to The House, Inc. (HTH 401)	19,000A	—	19,000A
Grant-in-aid to the Hawaii Medical Library, Oahu for books, journals, and associated operating costs (HTH 907)	25,000A	—	25,000A
To provide for the Suicide and Crises Center for emergency crisis intervention services (HTH 401)	40,000A	—	40,000A
To provide funds for the continuation of a breast cancer project (HTH 151)	30,000A	—	30,000A
Grant-in-aid to the Mental Health Association of Hawaii for the purpose of developing a diagnostic and crisis intervention program for mentally disturbed persons (GOV 860)	38,000A	—	38,000A
To provide funds for health research analysts (HTH 907)	2.00* 35,000A	—	35,000A
To provide funds for clerical positions for Central Oahu Mental Health Center and Pearl City Counseling Service (HTH 401)	2.00* 13,000A	—	13,000A
To provide for a physician for the Kohala area (HTH 907)	36,000A	—	36,000A

To provide funds for the cancer immunology program (HTH 151)	40,000A	—	40,000A
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**SOCIAL PROBLEMS**

To expand preventive services in child abuse and neglect provided by the Hawaii Family Stress Center (GOV 861)	61,000A	—	61,000A
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To provide grants-in-aid to support the activities of the Community Action Agencies: Hawaii County Economic Opportunity Council, Honolulu Community Action Program, Kauai Economic Opportunity, and Maui Economic Opportunity (GOV 860)	215,000A	—	215,000A
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To provide a grant-in-aid to the Welfare Recipients Advisory Council for neighbor island expansion (GOV 860)	86,460A	—	86,460A
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To provide for the operation of the State home renovation and rehabilitation program (SOC 225)	1,000,000A	—	1,000,000A
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To provide for a survey of needs in the State elderly housing program (SOC 225)	50,000A	—	50,000A
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To provide for the development and implementation of a pre-retirement training program (GOV 602)	70,000A	—	70,000A
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To provide increased payments to operators of adult boarding and care homes who service public assistance recipients (SOC 202)	100,000A	—	100,000A
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To provide funds to continue the operation of the Inter-Agency Council at Kuhio Park Terrace (SOC 229)	30,000A	—	30,000A
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Grant-in-aid to Hilo Interim Home (GOV 861)	60,000A	—	60,000A
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To provide funds to expand and improve the transportation services for the elderly, handicapped and other disadvantaged persons in Kauai County (GOV 860)	85,238A	—	85,238A
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To provide funds to expand and improve the transportation services for the elderly, handicapped and other disadvantaged persons in Hawaii County (GOV 860)	119,000A	—	119,000A
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To provide funds to expand and improve the transportation services for the elderly, handicapped and other disadvantaged persons in Maui County (GOV 860)	80,000A	—	80,000A
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Grant-in-aid to the Boy's Club (GOV 861)	50,000A	—	50,000A
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Grant-in-aid to the Catholic Social Services Child Abuse program (GOV 860)	32,500A	—	32,500A
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To provide funds to Alu Like to meet the matching requirement for the Native Americans Act (GOV 860)	100,000A	—	100,000A
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To provide custodial services funds for a Community Center on Molokai (HHL 601)	25,000A	—	25,000A
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To provide funds for a study of displaced home-makers (BUF 888)	3,000A	—	3,000A
Grant-in-aid to the Kauai Easter Seal Society (GOV 861)	20,000A	—	20,000A
To provide grants-in-aid to youth athletics teams (GOV 861)	5,000A	—	5,000A
To provide funds for a statewide protective service and advocacy system for developmentally disabled citizens (GOV 100)	70,000A	—	70,000A
To provide funds to be matched with federal funds for medical consultant services for the health care payments program (SOC 230)	6,500A	—	6,500A

## EDUCATION

To provide for the continued operation of the Center for Labor Education and Research at the University of Hawaii (UOH 101)	200,000A	—	200,000A
To provide for the continuation of the Kona coffee research and demonstration project (UOH 102)	91,600A	—	91,600A
To provide support to the Law of the Sea Institute at the University of Hawaii (UOH 101)	23,000A	—	23,000A
To provide for the operation of the Marine Option Program of the University of Hawaii (UOH 101)	40,000A	—	40,000A
To provide for the continued operations of the allied health programs at Kapiolani Community College (UOH 311)	102,406A	—	102,406A
To provide for the continuation of the University Without Walls program (UOH 101)	200,000A	—	200,000A
To provide for the continuing education for women program in the University of Hawaii system (BUF 888)	70,000	—	70,000A
To provide for the vocational/technical education program at Leeward Community College (UOH 321)	140,000A	—	140,000A
To provide for men's and women's intercollegiate athletic programs of the University of Hawaii, Manoa and Hilo campuses (UOH 105)	503,000A	—	503,000A
To provide funds for additional instructional positions for the agricultural program at Maui Community College (UOH 501)	2.00* 34,000A	—	34,000A
To provide funds for a financial aids-job placement counselor at Kauai Community College (UOH 604)	2.00* 33,920A	—	33,920A
To provide continuing research support for the Hawaii Agricultural Experiment Station (UOH 102)	7.00* 67,717A	—	67,717A

To provide funds for current expenses for the Hawaii Agricultural Experiment Station (UOH 102)	71,665A	—	71,665A
To provide funds to purchase a diffractometer (UOH 102)	40,000A	—	40,000A
To provide funds for the Diagnostic Services Center of the Cooperative Extension Service (UOH 103)	75,663A	—	75,663A
To provide for a stenographer for the Cooperative Extension Service on Molokai (UOH 103)	1.00* 8,620A	—	8,620A
To provide funds to purchase library books for Kaiser High School (EDN 104)	12,000A	—	12,000A
To provide for the continued operation of Nanai-kapono Community-School Museum (EDN 108)	30,000A	—	30,000A
To provide funds for banana research (UOH 102)	25,204A	—	25,204A
To provide funds for tissue culture propagation research (UOH 102)	44,000A	—	44,000A
To provide funds for vegetable research on Maui (UOH 102)	1.00* 10,620A	—	10,620A
To provide for the Kalihi-Palama Education Center (UOH 302)	32,000A	—	32,000A
To provide for the Pineapple Ant and Mealy bug control project, College of Tropical Agriculture (UOH 102)	17,000A	—	17,000A
Grant-in-aid to Maui Hui Malama, Inc. (EDN 108)	19,000A	—	19,000A
To provide funds for a career oppportunities program (EDN 108)	150,000A	—	150,000A
To provide for a computer model of the construction industry (UOH 102)	50,000A	—	50,000A
To provide for purchase of health, safety and sanitation equipment for the school lunch program (EDN 305)	25,000A	—	25,000A
To provide funds to the Hawaii Research Center for Futures Study for computer services for cross referencing of information about Hawaii (UOH 102)	5,000A	—	5,000A
To provide funds for support of foreign language education (EDN 106)	90,000A	—	90,000A
To provide funds for the acquisition of judo mats (EDN 106)	25,000A	—	25,000A
To provide funds for a feasibility study for a four-year Maui College (UOH 903)	25,000A	—	25,000A
To provide funds for current expenses for the Cooperative Extension Service (UOH 103)	33,920A	—	33,920A
To provide support for the information and publications program of the Cooperative Extension Service (UOH 103)	7,621A	—	7,621A

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To provide funds for forest tree decline research (UOH 102)	18,910A	—	18,910A
To provide funds for dairy cattle reproduction research (UOH 102)	39,544A	—	39,544A
To provide funds for a women's athletic director (UOH 105)	.50* 10,000A	—	10,000A
To provide current expenses for the women's athletics program (UOH 105)	35,000A	—	35,000A
To provide funds for personnel costs for physical facilities program (UOH 106)	27,000A	—	27,000A
To provide for the State Senior Center at Kalihi-Palama (UOH 302)	36,000A	—	36,000A
To provide funds for the additional utility and other expenses related to the relocation of Kauai Community College (UOH 605)	145,000A	—	145,000A
To provide funds for consultant services for the agricultural technology program at Windward Community College (UOH 331)	25,000A	—	25,000A

## CULTURE AND RECREATION

To provide for historical and archaeological research of the cultural resources on the island of Kaho-olawe (LNR 801)	50,000A	—	50,000A
To provide for the production of "Rice and Roses," a labor education series, by the Hawaii Public Broadcasting Authority (REG 701)	77,840A	—	77,840A
Grant-in-aid to the Bishop Museum for operating expenses (BUF 881)	100,000A	—	100,000A
To provide for the continuance of the Corps of Civilian Workers program (LNR 804)	183,650A	—	183,650A
Grant-in-aid to the Honolulu Symphony for educational programs (BUF 881)	100,000A	—	100,000A
Grant-in-aid to the Ensemble Players Guild for their Neighbor Island and rural Oahu program (BUF 881)	10,000A	—	10,000A
To provide for the continued operations of the Waianae Hawaiian Heritage Cultural Center (BUF 881)	36,000A	—	36,000A
To provide funds for additional fish and game wardens for Pearl Harbor (LNR 805)	80,000A	—	80,000A
To provide funds to acquire additional public television video tapes (REG 701)	70,000A	—	70,000A
To provide funds for a Kamehameha birthplace memorial (LNR 801)	25,000A	—	25,000A
To provide funds for the continued operation of the Pacific and Asian Affairs Council (BUF 802)	40,000A	—	40,000A
To provide funds for Kalihi-Palama Culture/Arts (BUF 881)	30,000A	—	30,000A

Grant-in-aid to the Theatre for Youth for Neighbor Island Program (BUF 881)	80,000A	—	80,000A
To provide funds for the Waianae Coast Arts Council, Inc. (BUF 881)	75,000A	—	75,000A
Grant-in-aid to the Hawaii Theatre Festival (BUF 881)	50,000A	—	50,000A

#### **PUBLIC SAFETY**

To provide for a vocational training program for juvenile offenders committed to the Hawaii Youth Correctional Facility (SOC 401)	85,000A	—	85,000A
To provide for the continuation and expansion of alternative diversionary correctional programs in the community (SOC 404)	123,500A	—	123,500A
To provide for increased security at the Hawaii Youth Correctional Facility through the hiring of additional staff (SOC 401)	70,000A	—	70,000A
To provide funds to continue the Mutual Agreement Program (SOC 492)	82,000A	—	82,000A
To provide funds for the People Synergistically Involved program (SOC 493)	40,000A	—	40,000A

#### **GOVERNMENT-WIDE SUPPORT**

To provide for public awareness and education programs in each county to be conducted by the Land Use Commission (PED 103)	30,000A	—	30,000A
To provide for an information program to discourage in-migration to Hawaii from other states (GOV 100)	50,000A	—	50,000A
To provide for the operation of the Council of Housing and Construction Industry (GOV 100)	100,000A	—	100,000A
To provide funds to commission a portrait of the late Governor John A. Burns (GOV 100)	10,000A	—	10,000A

### **PART VI. ISSUANCE OF BONDS**

**SECTION 91. GENERAL OBLIGATION BONDS.** General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part IV of this Act and designated to be financed from general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds, provided that the sum total of the general obligation bonds so issued shall not exceed \$212,639,000.

**SECTION 92. AIRPORT REVENUE BONDS.** The Department of Transportation is authorized to issue airport revenue bonds for airport capital

investment projects authorized in Part II and listed in Part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary for the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain, or increase reserves for the airport revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to Sections 243-4(a) (2) and 248-8, Hawaii Revised Statutes, as amended, or such parts of either thereof as the department may determine, including rents, landing fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of airports and related facilities and the furnishing and supplying of services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund. The Governor, in his discretion, is authorized to use the airport revenue fund to finance those projects in Part II where the method of financing is designated to be by airport revenue bond funds.

**SECTION 93. HARBOR REVENUE BONDS.** The Department of Transportation is authorized to issue harbor revenue bonds for harbor capital investment projects authorized in Part II and listed in Part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain, or increase reserves for the harbor revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage and pilotage fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of harbors and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such

harbor revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the harbor special fund.

## **PART VII. SPECIAL PROVISIONS**

**SECTION 94.** Sand Island income from land and facilities dedicated to the University of Hawaii shall be expended for the operating expenses of the University. Such income, excluding amounts required to reimburse the general fund for capital improvements, shall be deposited into the general fund of the State and shall be considered to be a reimbursement to the general fund for moneys appropriated for the operation of the University of Hawaii under Part II of this Act. Sand Island income from other lands and facilities, other than those set aside for Harbors or Foreign Trade Zone purposes, shall be deposited into the general fund.

**SECTION 95.** There is hereby appropriated out of the public trust fund created by Section 5(f) of the Admission Act (Public Law 86-3, 86th Congress), the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom granted to the State by Section 5(b) or later conveyed to the State by Section 5(3), with the exception of such proceeds covered under Section 171-19, Hawaii Revised Statutes, as amended, to be disposed of by the Board of Land and Natural Resources, in order to reimburse the general fund for the appropriation made in Part II of this Act to the Department of Education for the support of public schools, to the extent such proceeds are realized for the period beginning July 1, 1977 to June 30, 1979. The above proceeds shall be exclusive of the amount disposed of under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

**SECTION 96.** Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the Governor, or the Director of Finance, if so delegated by the Governor, shall transfer the necessary funds and positions to the proper expending agency.

**SECTION 97.** In allotting funds for social welfare programs and other programs and agencies having appropriations which are based on population and workload data as specified in this Act, only so much as is necessary to provide the level of services intended by the legislature shall be allotted by the Department of Budget and Finance. For this purpose, agencies concerned shall reduce expenditures below appropriations as prescribed by the Department of Budget and Finance in the event actual population and workload trend is less than the specified figure. In the event that the trend is higher than the specified figure, or the reasonable average daily cost of the medical care for the needy and medically needy exceeds the anticipated average sum per patient day upon which the appropriation therefor was based, the agency is authorized to submit a deficiency appropriation request to the extent and on such basis as may be prescribed by the Director of Finance. In the event that the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient day, or the caseload trend for money or

medical assistance payments is higher than the specified figure, the Governor is authorized to utilize savings as may be available from appropriated funds of any program for the purpose of meeting the deficit in the social welfare program of the Department of Social Services and Housing.

SECTION 98. With the approval of the Director of Finance, the Department of Health may transfer to the Department of Social Services and Housing funds appropriated to the Department of Health for the care and treatment of patients whenever the Department of Social Services and Housing can utilize such funds to match federal funds which may be available to help finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents.

The Department of Social Services and Housing is authorized to enter into agreements with the Department of Health to furnish outpatient, hospital and/or skilled nursing home care and to pay the Department of Health for such care. With the approval of the Director of Finance, the Department of Health may deposit part of such receipts into the appropriations from which transfers were made.

SECTION 99. Unless otherwise provided in this Act, the Governor is authorized to transfer funds between appropriations within an expending agency for research and development and operating purposes; provided that prior to effecting any transfer, the Governor shall obtain the approval of the President of the Senate and the Speaker of the House of Representatives; and provided that such transfer shall not be made to implement any collective bargaining contract signed after this Legislature adjourns sine die.

SECTION 100. Where a program is financed by the general fund as well as by a source of funding other than the general fund, the general fund appropriation shall be decreased to the extent that the amount received from the non-general fund source exceeds the amount approved in this Act from such source; provided that such decrease of the general fund appropriation shall not jeopardize the receipt of the increased amount from the non-general fund source; provided further, that the preceding requirements shall not apply if the excess receipts are to be expended for a purpose or purposes of the program approved by the Governor or the Director of Finance if such authority is so delegated by the Governor.

SECTION 101. For the fiscal biennium 1977-79, where a program is authorized under Part II of this Act to expend from a revolving, special, or trust fund, agencies responsible for such funds are authorized to expend so much as may be necessary to carry out the purpose of each such fund; provided, that such expenditures are approved by the governor or by the director of finance if so delegated by the governor; and provided further, that such expenditure shall not exceed the amounts available in such funds.

SECTION 102. The Governor is hereby authorized to establish 40 permanent positions during each fiscal year of the fiscal biennium 1977-79 to be allocated by him to any of the program areas included in this Act as he shall deem proper. No positions shall be established under this section to implement

any collective bargaining agreement signed after this Legislature adjourns sine die.

SECTION 103. The department of labor and industrial relations is hereby authorized to expend from the special compensation fund, any receipts in excess of the amount specified in Part II, if such expenditures are approved by the governor or, if so delegated, by the director of finance.

SECTION 104. The University of Hawaii (summer session, continuing education, food services, transportation services, small business management, and laboratory school cafeteria) is authorized to expend from the special funds designated in parenthesis, any receipts in excess of the amount specified in Part II; provided, that such expenditures shall have prior approval of the governor, the president of the senate, and the speaker of the house of representatives.

SECTION 105. Any provision of law to the contrary notwithstanding the Governor is authorized to utilize an appropriate portion of such sums included in the respective program appropriation in Part II of this Act for personal services, for salary increases for public officers and employees excluded from collective bargaining under Chapter 89, Hawaii Revised Statutes; provided that said increases shall not exceed and shall not take effect earlier than increases for comparable members of collective bargaining units.

SECTION 106. Where the Governor or any agency or any government unit is able to secure federal funds or other property made available under any Act of Congress or any funds or other property from private organizations or individuals, to be expended in connection with any program or works authorized by this Act, or otherwise, the Governor or agency with the Governor's approval shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organizations or individuals. While most federal-aid allocations are known and local matching funds are provided in this Act, there may be programs for which federal-local cost sharing are not yet determined. In such cases, the availability of federal funds shall be construed as a reduction of State costs whenever possible.

SECTION 107. All subsidies made to non-public organizations in this Act shall, as a condition of receiving such money, (1) comply with the allotment system as provided in Chapter 37, Hawaii Revised Statutes, (2) allow the expending or other related agency full access to their records, files, reports, and other related areas in order that the agency may assist them to improve their management and fiscal practices, and (3) submit all future budget requests on a form prescribed by the Director of Finance.

SECTION 108. In the event the State should assume the direct operation of any nongovernmental agency receiving State funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such nongovernmental agency. This credit shall be applicable regardless of when such acquisition takes place.

SECTION 109. Any law or any provision of this Act to the contrary

notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal year for which the appropriation is made, provided that all appropriations made to be expended in fiscal year 1977-78 which are unencumbered as of June 30, 1981 and all appropriations made to be expended in fiscal year 1978-79 which are unencumbered as of June 30, 1982 shall lapse as of that date; and provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement.

**SECTION 110.** If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

**SECTION 111.** The designated expending agency for capital investments authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so.

**SECTION 112.** All general obligation bond funds used for highway, harbor, boating, airport or land development capital investment purposes, designated by the letter (D), shall have the bond principal and interest reimbursed from the State highway fund, the harbor special fund, the boating special fund, the airport revenue fund, or the special land and development fund, respectively. Bonds issued for irrigation projects shall be reimbursed, as provided by Section 174-21, Hawaii Revised Statutes.

The Governor is authorized to use, at his discretion, the State highway fund, the harbor special fund, the boating special fund, the airport revenue fund or the special land and development fund to finance the respective highway, harbor, boating, airport or land development projects authorized in this Act, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from special funds.

**SECTION 113.** Where county capital improvement projects are partially or totally funded by state grants-in-aid as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

**SECTION 114.** The negotiation for the purchase of land by State agencies shall be subject to the approval of the Governor. Private lands may be acquired for the purpose of exchange for federal lands when the Governor determines that such acquisition and exchange are necessary for the completion of any herein authorized projects.

**SECTION 115.** Any law or any provision to the contrary notwithstanding, the Governor may, with the concurrence of the President of the Senate and the

Speaker of the House of Representatives supplement funds for any early-phased cost element (design or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for later-phased cost elements (land or construction) for the same project authorized by the Legislature in this Act or in a prior year, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriations for that project.

**SECTION 116.** All unrequired balances after the objectives of appropriations made in this Act for capital investment purposes from the general obligation bond fund have been met shall be transferred to the project adjustment fund appropriated in Part II of this Act and shall be considered a supplementary appropriation thereto.

In the event that the amount specified for a capital investment project listed in this Act or authorized by the Legislature in a prior year or in the future is insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided further that a report of such supplemental allotments and transfers into the project adjustment fund for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

Any provision in this Act to the contrary notwithstanding, supplemental allotments from the project adjustment fund may be made for any capital investment cost element.

**SECTION 117.** In the event that the amount specified for a capital investment project listed in this Act is insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, or revenue bond fund, the Governor may make supplemental allotments from the special fund responsible for cash or debt service payments for the project or transfer unrequired balances from other projects in this or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, or revenue bond fund; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; and provided further that a report of such supplemental allotments and transfers for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

**SECTION 118.** The Governor may authorize the expenditure of funds for capital investment projects not previously authorized in this Act to cope with unemployment, unforeseen emergencies arising from elements such as fires and natural disasters and for any federal aid portion of any capital investment project described in this Act where application for such aid has been made and approval has been denied; provided, that the unemployment, or such

emergencies, or denial of federal aid create an urgent need to pursue a course of action which is in the best interest of the State; and provided, further, that the Governor shall use the project adjustment fund authorized in Part II and described in Part IV to accomplish the purposes of this section.

**SECTION 119.** General revenues of the State of Hawaii may be expended by the Governor to cope with unemployment and unforeseen emergencies arising from elements such as fires and natural disasters; provided, that the unemployment, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided, that the Governor may authorize an increase in repairs and maintenance activities on State facilities to alleviate the unemployment and cope with such emergencies. To accomplish the purpose of this section, the Governor is authorized to transfer to the Building, Repair and Alterations (AGS 233) and Physical Plant Operations and Maintenance (AGS 807) programs up to \$5,000,000 in savings as may be available from the appropriations authorized in Part II of this Act.

**SECTION 120.** Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital investment project described in this Act, the Governor may authorize such reduction of project scope; provided, that the scope of a project shall not be reduced merely because the appropriation for a project is insufficient.

**SECTION 121.** In releasing funds for projects, the Governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended service; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

**SECTION 122.** Any law or any provision to the contrary notwithstanding, reclassifications or reallocations of positions authorized in Part II of this Act shall not result in salary increases of more than two (2) steps nor shall the increase exceed 15 per cent.

**SECTION 123.** Any law or any provision to the contrary notwithstanding, the term "savings" as used in this Act shall mean any unexpended appropriations from programs authorized in Part II of this Act, resulting from the promotion of more economic and efficient management while still achieving the program objectives intended by the legislature.

## **PART VIII. MISCELLANEOUS AND EFFECTIVE DATE**

**SECTION 124. MISCELLANEOUS.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the Legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 125. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the Legislature at its next session.

SECTION 126. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 127. EFFECTIVE DATE. This Act shall take effect on July 1, 1977.

(Approved June 23, 1977.)

## ACT 11

H.B. NO. 2

A Bill for an Act Making Appropriations for Judiciary Program Expenditures and for Improvements for the Fiscal Biennium July 1, 1977 to June 30, 1979, and Authorizing the Issuance of Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I. GENERAL PROVISIONS

SECTION 1. **Short Title.** This Act shall be known as the Judiciary Appropriations Act of 1977.

SECTION 2. **Definitions.** Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the judiciary (JUD) followed by the organization number for the program.

(b) "Source of funding" means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

- A General fund
- B Special fund
- C General obligation bond fund.

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

### PART II. PROGRAM APPROPRIATIONS

SECTION 3. **Appropriations.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1977 and ending June 30, 1979. The total expenditures and the number of permanently established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

\*Edited accordingly.

Item No.	Program	Program I.D.	FY 1977-78	FY 1978-79	Total biennium 1977-79
<b>THE JUDICIAL SYSTEM</b>					
Court Operations					
1	Supreme Court Operating	JUD 101	29.00* 697,107A	29.00* 701,895A	1,399,002A
2	Land Court/Tax Court Operating	JUD 102	3.00* 62,364A	3.00* 62,533A	124,897A
3	Circuit Courts Operating	JUD 111	197.50* 4,399,428A	197.50* 4,454,052A	8,853,480A
4	Family Courts Operating	JUD 112	195.50* 3,648,796A	196.50* 3,763,152A	7,411,948A
5	District Courts Operating	JUD 121	286.00* 4,390,593A	289.00* 4,512,107A	8,902,700A
Support Services					
6	Administrative Director Services Operating Investment: Capital	JUD 201	38.00* 1,018,385A 4,576,000C	38.00* 1,176,406A 17,043,000C	2,194,791A 21,619,000C
7	Law Library Operating	JUD 202	7.00* 311,906A	7.00* 327,074A	638,980A
8	Driver Education and Training Operating	JUD 221	42.00* 534,067B	42.00* 563,767B	1,097,834B

SECTION 4. Whenever the expending program of the judiciary to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the chief justice shall transfer the necessary funds and positions to the proper expending program.

SECTION 5. Whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, is authorized to transfer sufficient funds and positions between programs for research and development and operating purposes; provided that such transfer shall be with the concurrence of the President of the Senate and the Speaker of the House of Representatives; and provided further that such transfer shall not be made to implement any collective bargaining contracts signed after this Legislature adjourns sine die.

SECTION 6. Where the chief justice or any agency or any government unit is able to secure federal funds or other property made available under any act of Congress, or any funds or other property from private organizations or individuals which are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice or agency with the chief justice's approval shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organization or individuals. While most federal aid allocations are known and state matching funds are provided in this Act, there may be programs for which federal-state cost sharing is not yet determined. In such instances, the availability of federal funds shall be construed as a proportionate reduction of state costs whenever possible.

SECTION 7. Provided, that the following sums in Part II appropriated for incremental and longevity salary increases for employees of the State of Hawaii are authorized to be used to fund cost items in collective bargaining agreements ratified for bargaining units 1, 3, 4, 10, and 13 for fiscal biennium 1977-1979:

	1977-78	1978-79
General Fund	\$300,061	\$556,667
Federal Funds	20,940	42,984
Special Funds	11,884	34,138

### PART III. CAPITAL IMPROVEMENT PROJECTS

SECTION 8. Capital improvement projects authorized. The sums of money appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Two or more related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design, and construction purposes; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars and are to be expended by the judiciary.)

Item No.	Program and Capital Project	Program ID	FY 1977-78	FY 1978-79	Total Biennium 1977-79
	<b>The Judicial System</b>				
	Support Services				
	Administrative Director Services	JUD 201			
1	State Judiciary Complex, Oahu To construct a new State Judiciary complex in the vicinity of the State Capitol Complex.				
	Land Acquisition		1,389		1,389
	Construction				
	Total Funding		1,389C		1,389C
2	Honolulu District Court, Oahu To provide for a new facility for Honolulu District Court and related judiciary services.				
	Design		90		90
	Construction			15,740	15,740
	Total Funding		90C	15,740C	15,830C
3	Renovation of Aliioli Hale, Oahu To renovate and furnish the Aliioli Hale for the supreme court, law library and administrative director's office.				
	Design		3		3
	Construction		1,161		1,161
	Total Funding		1,164C		1,164C
4	Wailuku Judicial Complex, Maui Land acquisition, design and construction for the Wailuku Judiciary complex which will consist of facilities for the Wailuku district court and second circuit court in the Wailuku Civic Center.				
	Land Acquisition		1,633		1,633
	Design		197		197
	Construction				
	Total Funding		1,830C		1,830C

5	Koolaupoko District Court, Oahu Design, construction and furnishing of the district court in the State Office Building within the proposed Windward Civic Center.			
	Design	70		70
	Construction		831	831
	Total Funding	70C	831C	901C
6	Wahiawa District Court, Oahu Design, construction and furnishing of the district court in the State Office Building within the expanded Wahiawa Civic Center.			
	Design	33		33
	Construction		319	319
	Total Funding	33C	319C	352C
7	Advance Planning—Judiciary Statewide Advance planning to establish the statewide physical facility needs of the judiciary, and the preparation of staff studies relating to physical facilities.			
	Design		10	10
	Total Funding		10C	10C
8	Makawao District Court, Maui Design, construction and furnishing of the new district court in the Makawao Civic Center.			
	Design		36	36
	Total Funding		36C	36C
9	Molokai District Court, Molokai Design, construction and furnishing of the district court in the State Office Building within the Kaunakakai Civic Center.			
	Design		40	40
	Total Funding		40C	40C
10	Lahaina District Court, Maui			

Item No.	Program and Capital Project	Program ID	FY 1977-78	FY 1978-79	Total Biennium 1977-79
	Renovation and furnishing of the second floor of the Lahaina Courthouse to accommodate the district court.				
	Design			32	32
	Total Funding			32C	32C
11	Waialua District Court, Oahu				
	Design, construction and furnishing of the district court in the proposed civic center for the Waialua district.				
	Design			35	35
	Total Funding			35C	35C

## **PART IV. ISSUANCE OF BONDS**

**SECTION 8. General Obligation Bonds.** General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part III of this Act, provided that the sum total of the general obligation bonds so issued shall not exceed \$21,619,000.

## **PART V. SPECIAL PROVISIONS.**

**SECTION 9.** Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to be expended in fiscal year 1977-78 which are unencumbered as of June 30, 1981 shall lapse as of that date and all appropriations made to be expended in fiscal year 1978-79 which are unencumbered as of June 30, 1982 shall lapse as of that date.

**SECTION 10.** The judiciary is authorized to delegate to other state or county agencies the planning and construction of any capital improvement project when it is determined by the judiciary that it is an advantage to do so.

**SECTION 11.** All unrequired balances after the objectives of appropriations made in Part II for capital investment purposes from the general obligation fund and listed as projects in Part III have been met, shall be transferred to the judiciary project adjustment fund, which is hereby created.

**SECTION 12.** In the event that the amount specified for a capital investment project listed in Part III is insufficient and where the source of funding for the project is designated as the general obligation bond fund, the chief justice may make supplemental allotments from the project adjustment fund; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that a report of such supplemental allotments and transfers into the judiciary project adjustment fund as provided by section 11 for the period ending December 31 of each calendar year shall be made to the President of the Senate and the Speaker of the House of Representatives by February 1 of the following calendar year.

**SECTION 13.** Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a project listed in Part III, the chief justice may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for the project is insufficient.

**SECTION 14.** The chief justice shall determine when and the manner in which the authorized projects shall be initiated. He shall notify the governor from time to time of the specific amounts required for the projects, and the governor shall provide for such amounts through the issuance of bonds authorized in Part IV.

## **PART VI. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

**SECTION 15. Severability.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the

legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective and intent of such appropriation to the extent possible.

**SECTION 16. Manifest errors.** In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

**SECTION 17. Effective date.** This Act shall take effect on July 1, 1977.

(Approved June 23, 1977.)

ACT 12

H.B. NO. 7

**A Bill for an Act Relating to Aquaculture Development in Hawaii and Making an Appropriation Therefor.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and Purpose.** Modern aquaculture in Hawaii has a history of less than fifteen years, but there is a growing awareness that an aquaculture industry in Hawaii will have a beneficial impact on the economy and on the effective management of the State's natural resources.

The term, "aquaculture industry," involves a comprehensive group of activities including research, development, education, training, culturing, production, processing, marketing, distribution, as well as support goods and services.

Act 226, Session Laws of Hawaii 1976, appropriated to the department of planning and economic development the sum of \$150,000 to develop a statewide plan for aquaculture, including economic assessments and site surveys. The department of planning and economic development has provided the legislature with an interim report on the aquaculture planning program, which began in July 1976, and the aquaculture plan is scheduled for completion by June 30, 1977.

The planning effort now underway will provide a comprehensive treatment of all aspects of aquaculture in Hawaii. It will outline the economic benefits to the State from aquaculture development and will describe the actions needed and their associated costs. The aquaculture plan will also identify those species with the greatest immediate potential to become an industry and recommend the facilities and resources needed in the State for aquaculture development.

The purpose of this Act is to sustain the momentum generated by the aquaculture planning program by insuring that immediate actions will be initiated to encourage and promote commercial development of aquaculture in Hawaii and to undertake the culture of species with potential for Hawaii. It is also the purpose of this Act to qualify Hawaii for participation in federally assisted programs and projects in aquaculture by providing funds and in-kind

services to match such federal funds as may become available.

**SECTION 2. Functions.** The director of planning and economic development shall:

- (1) Maintain cognizance of actions taken by industry and by federal, state, county, and private agencies in activities relating to aquaculture and promote and support worthwhile aquaculture activities;
- (2) Serve as an information clearinghouse for aquaculture activities in Hawaii;
- (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial potential;
- (4) Actively seek federal funding of aquaculture activities in Hawaii;
- (5) Undertake such activities as may be required in developing an aquaculture industry;
- (6) Perform such other functions as may be assigned by the governor; and
- (7) Prepare a written report to the legislature by January 18, 1978, of the actions taken under this Act and the progress made in developing aquaculture in Hawaii.

**SECTION 3. Staffing.** The director of planning and economic development is hereby authorized to hire temporary staff exempt from the provisions of chapters 76 and 77, Hawaii Revised Statutes, to carry out the purposes of this Act.

**SECTION 4. Appropriation.** There are appropriated from the general revenues of the State of Hawaii the following sums to be expended by the department of planning and economic development for the purposes of this Act:

- |                                       |           |
|---------------------------------------|-----------|
| (1) Operating cost category:          | \$672,228 |
| (2) Capital investment cost category: | \$138,300 |

Funds not expended or encumbered by June 30, 1978, shall lapse as of that date.

**SECTION 5.** This Act shall take effect on July 1, 1977.

(Approved June 23, 1977.)

## ACT 13

H.B. NO. 9

A Bill for an Act Relating to Capital Improvements.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to change the source of funding of certain capital investment projects authorized by Acts 195 and 197, Session Laws of Hawaii 1975, as amended.

**SECTION 2.** The appropriations and authorizations, as the case may be, setting forth the sources of funding specified for certain capital investment projects as set forth in those items numbered in Section 88A of Act 195, Session Laws of Hawaii 1975, as amended by Act 226, Session Laws of Hawaii, 1976, as hereinafter set forth are amended to read as follows:

**“PART IVA. CAPITAL IMPROVEMENTS**

**SECTION 88A.** The following sums of money or so much thereof as may be necessary are hereby authorized or appropriated, as the case may be, for the fiscal year beginning July 1, 1976 and ending June 30, 1977, from the source of funding specified for the capital investment projects and the project adjustment fund listed below. The letter symbol in the code column after each project appropriation indicates the source of funding and shall have the meaning set forth in section 2 of Act 195, Session Laws of Hawaii 1975. For projects listed under the program area for which the program identification organization is the department of accounting and general services (AGS), the office of the governor (GOV), the department of Hawaiian home lands (HHL), the department of land and natural resources (LNR), the department of planning and economic development (PED), or the department of transportation (TRN), such department or office shall be the expending agency. For all other projects unless otherwise specified herein, the department of accounting and general services shall be the expending agency. Several or more related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided, that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to fund the project adjustment fund and to finance projects authorized herein and designated to be financed from general obligation bond fund and to finance projects authorized herein and designated to be financed from the general obligation bond fund with debt service cost to be paid from special funds, provided that the sum total of the general obligation bonds so issued shall not exceed \$160,354,000. Nothing in this section shall affect the continuing effectiveness of the appropriations for the projects listed in section 88 of Act 195, Session Laws of Hawaii 1975. (The amount after each cost element and the total funding for each project listed in this section are in thousands of dollars.)

Program ID					APPROPRIATIONS (\$1,000's)					
Item No.	Program and Capital Project	Cap. Proj. No.	Org.	No.	FY 1975-1976	C O D E	FY 1976-1977	C O D E	Total Biennium 1975-1977	C O D E
<b>A. ECONOMIC DEVELOPMENT</b>										
<b>COMMERCE AND INDUSTRY</b>			PED	102						
1	Natural Energy Project, Ke-ahole Pt., Hawaii	119								
	Design						1		1	
	Construction						749		749	
	Total Funding					C	750C		750C	
<b>D. ENVIRONMENTAL PROTECTION</b>										
<b>POLLUTION CONTROL</b>										
Solids, Liquids and Gases			HTH	841						
1	Sewerage Construction									
	Grants	Y01								
	Grants to County or State agencies for eligible water pollution abatement facilities conforming with State WPC Plan authorized by Act 118/1973. State may make grants to finance eligible design and/or construction costs of projects receiving Federal grants. Unexpended balances in Items A1 & A2, Act 68/1971, Item A1, Act 202/1972 & Item D1, Act 218/74 may be used for this purpose (to be expended by Dept of HTH)									
	Design						1		1	
	Construction						4,499		4,499	
	Total Funding					C	4,500C		4,500C	

## APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org.	No.	FY 1975-1976	C O D E	FY 1976-1977	C O D E	Total Biennium 1975-1977	C O D E
<b>H. CULTURE AND RECREATION</b>										
<b>CULTURAL ACTIVITIES</b>										
Collections, Historical Sites and Studies										
	LNR—Historical & Archaeological Places		LNR	801						
1	Statewide Historical Preservation Program		F10							
	Incremental development of comprehensive statewide historic preservation survey, plans, research, and preservation of Hawaii's historic places, structures and objects.									
	Land Acquisition						150		150	
	Total Funding					C	150C		150C	
2	Iolani Palace Restoration		F11							
	Incremental research, planning, preservation, restoration and interpretation of Iolani Palace, barracks, grounds, and appurtenances as a historic restoration complex.									
	Design						100		100	
	Construction						900		900	
	Total Funding					C	1,000C		1,000C	
	Other Natural Features		LNR	803						
5	Wailua River State Park (Fern Grotto)		F31							
	Refurbish and replace existing facilities and improve safety measures regarding loose rock and flood hazards using existing funds. Develop an interpretive program in the future.									
	Design						15		15	

	Construction					185	185
	Total Funding				C	200C	200C
	Cultural and Artistic Events						
	Performing & Visual Arts Events		BUF	881			
7	Performing & Visual Arts Events	GRA					
	Works of art for state building to comply with the first circuit court's order dated 1/30/75 in the case of Kalihi-Palama Culture & Arts, Inc. vs. Kenam Kim Civil No. 42461.						
	Construction					170	170
	Total Funding				C	170C	170C
	RECREATIONAL ACTIVITIES						
	Outdoor Activities						
	Inland-Based Activities		LNR	804			
8	Hawaii Game Management Facilities	C02					
	Incremental Development of game management facilities including construction of hunter access roads, game water units, game range improvements, exclosures, hunter facilities, signs and markers.						
	Construction					6	6
	Total Funding				C	6C	6C
9	Honolulu Game Management Facilities	C04					
	Incremental development of game management facilities include construction of hunter access roads, game water units, game range improvements, exclosures, hunter facilities, signs and markers.						
	Construction					2	2
	Total Funding				C	2C	2C
10	Importation of Gamebirds to Hawaii	C10					
	Importation of game birds to the island of						

Item No.	Program and Capital Project	Program ID		APPROPRIATIONS (\$1,000's)			
		Cap. Proj. No.	Org.	No.	FY 1975-1976	FY 1976-1977	Total Biennium 1975-1977
	Hawaii including selection of species, search for stock, preparation of environmental impact statement if required, request for and approval of importation permits, preparation of regulation for importation, public hearing process, acquisition of stock, release and follow up to assess success.						
	Construction					5	5
	Total Funding				C	5C	5C
11	Forest Trails	D02					
	Forest Trails. Trails are constructed, on an incremental basis, primarily by forestry with summer students. Trails are at least 2 feet wide with hazardous spots corrected. Trails provide remote outdoor recreation including hunting, fire and pest control access, and occasionally route for rescue operations. Breakdown by program: other inland-based outdoor activities — 75%, forest and open spaces—25%.						
	Design					9	9
	Construction					48	48
	Total Funding				C	57C	57C
12	Kokee State Park	F46					
	Continued park development and replacement of older facilities.						
	Design					20	20
	Total Funding				C	20C	20C
13	Wainapanapa State Park	F55					
	Incremental acquisition & development of						

major park with outstanding scenic and historic values including picnic areas, campground and low cost vacation facilities.

	Land Acquisition		400	400
	Design		35	35
	Total Funding	C	435C	435C
14	Hana Road State Waysides	F59		
	Parking development and plantings, grading and paving of parking areas, and improvements to Kaumahina wayside. Replace and improve water and sewage systems.			
	Design		25	25
	Construction		150	150
	Total Funding	C	175C	175C
15	Aiea Bay, Pearl Harbor, Oahu	F83		
	(Also referred to as Rainbow Bay) Acquisition, plan, design and development of Aiea Bay, Pearl Harbor, Oahu, into a state park and recreation area.			
	Land Acquisition		1,500	1,500
	Total Funding	C	1,500C	1,500C
16	Honolulu Stadium Site	F97		
	Acquisition of lands, planning and development up to 9.17 acres for park and recreational complex in Moiliili on lands of old stadium site.			
	Design		100	100
	Construction		400	400
	Total Funding	C	500C	500C
17	Waimano Gulch, Oahu	HZ9		
	(Manana-Uka Valley)			
	Planned acquisition and/or development of a park in Waimano Gulch (Manana-Uka Valley) between Pacific Palisades and Pearl City.			
	Land Acquisition		500	500
	Total Funding	C	500C	500C

				APPROPRIATIONS (\$1,000's)			
Item No.	Program and Capital Project	Cap. Proj. No.	Program ID		FY 1975-1976	FY 1976-1977	Total Biennium 1975-1977
			Org.	No.			
18	Sacred Falls	H45					
	Major proposed park. Project description to be determined by master plan being requested.						
	Design					100	100
	Total Funding				C	100C	100C
19	Wawamalu (Queen's) Beach	H52					
	Project to be determined by planning funds being requested.						
	Design					100	100
	Total Funding				C	100C	100C
20	Kailua Swimming Pool, Oahu	L19					
	Plans and construction for a new swimming pool and appurtenances.						
	Design					10	10
	Construction					226	226
	Total Funding				C	236C	236C
33	Haena Beach State Park	F74					
	Incremental acquisition of land and incremental development as overnight campground, picnic area, swimming beach, hiking trails. Development to be low density and rustic so as not to detract from values of site. Sufficient parking for hikers.						
	Design					50	50
	Total Funding				C	50C	50C
34	Makena-Laperouse State Park, Maui	F75					
	Plans and construction, including acquisition of land, to supplement prior appropriations.						

	Land Acquisition		300	300
	Design		35	35
	Total Funding	C	335C	335C
35	Wailua River State Park (Lydgate)	F76		
	Develop an additional 25 acres for camping on state lands recently designated for park purposes.			
	Construction		100	100
	Total Funding	C	100C	100C
36	Na Pali Coast State Park (Polihale)	F78		
	Incremental development of existing beach park.			
	Construction		175	175
	Total Funding	C	175C	175C
37	Kaiaka Point	F88		
	Land acquisition and development of beach park at Kaiaka Point, Haleiwa, Oahu master planning.			
	Land Acquisition		600	600
	Design		60	60
	Total Funding	C	660C	660C
38	Malae Kahana Beach Park	HTO		
	Planned acquisition and/or development (TMK 5-6-01:7; 5-6-01:6; 5-6-01:4; 5-6-01:5; 5-6-01:14)			
	Land Acquisition		1,000	1,000
	Total Funding	C	1,000C	1,000C
	Spectator Events and Shows	BUF 889		
39	Pedestrian Bridge Modifications	BF5		
	Modifications to the pedestrian bridges at the Aloha Stadium.			
	Design		19	19
	Construction		222	222
	Total Funding	C	241C	241C

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID		APPROPRIATIONS (\$1,000's)		
			Org.	No.	FY 1975-1976	FY 1976-1977	Total Biennium 1975-1977
40	Modifications for Special Events at Stadium	BF6					
	Modifications for concerts, boxing, religious gatherings and other special events to include alterations to the stadium.						
	Design					5	5
	Construction					42	42
	Total Funding				C	47C	47C
41	Stadium Waterproofing & Drainage	BF7					
	Stadium waterproofing & drainage to protect critical areas.						
	Design					19	19
	Construction					222	222
	Total Funding				C	241C	241C
42	Modifications to Aloha Stadium	BF8					
	Modifications to entrances, railings, elevators & other improvements.						
	Design					20	20
	Construction					269	269
	Total Funding				C	289C	289C
43	Alterations to Electrical & Plumbing System	BF9					
	Alterations to electrical & plumbing sys to conserve utilities & increase efficiency.						
	Design					12	12
	Construction					115	115
	Total Funding				C	127C	127C
44	Stadium Ground Improvements	B11					
	Design and construction of stairways, walk-						

ways, sprinkler system, drainage and other  
ground improvements.

Design

Construction

Total Funding

	26	26
	157	157
C	183C	183C

# **K. GOVERNMENT-WIDE SUPPORT**

Facilities Construction and Maintenance  
Construction

AGS 221

22 HI State Capitol Complex Master Plan B05

Implementation of Hawaii State Capitol  
complex master plan, including landscaping  
and general site improvements.

Design

Construction

Total Funding

	50	50
	450	450
C	500C	500C

## ACT 13

SECTION 3. Section 88B of Act 195, Session Laws of Hawaii 1975, as amended by Act 226, Session Laws of Hawaii 1976, is amended to read as follows:

“SECTION 88B. The following sums of money or so much thereof as may be necessary are hereby appropriated or authorized as the case may be, out of moneys in the treasury received from general obligation bond funds to be expended by the department of accounting and general services for the project listed below. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein, provided that the sum total of the general obligation bonds so issued shall not exceed \$8,181,000.

Correctional Facilities

8,181,000

Planning and construction of Intake

Service Center/Community Correctional

Center for Oahu, Hawaii, Kauai, Maui

and the Oahu High Security Facility.

The unexpended balances from Item G-2,

Adult Furlough Center, Section 4,

Act 68, SLH 1971 may also be used.”

SECTION 4. Section 3 of Act 197, Session Laws of Hawaii 1975, as amended by Act 233, Session Laws of Hawaii 1976, is amended to read as follows:

"Item No.	Program	FY 1975-1976	FY 1976-1977	Total Biennium 1975-1977
1	Supreme Court Operating	22.00* 472,664A	27.00* 560,672A	1,033,336A
2	Circuit Courts Operating Investment: Capital	182.00* 3,420,380A	189.00* 3,672,982A 194,000C	7,093,362A 194,000C
4	Family Courts Operating	187.50* 3,168,941A	187.50* 3,196,600A	6,365,541A
5	District Courts Operating Investment: Capital	251.00* 3,368,600A 1,088,000C	263.00* 3,567,333A 208,000C	6,935,933A 1,296,000C
6	Administrative Director Services Operating Investment: Capital	20.00* 660,944A 231,000C	20.00* 835,756A 4,273,000C	1,496,700A 4,504,000C"

SECTION 5. Section 8 of Act 197, Session Laws of Hawaii 1975, as amended by Act 233, Session Laws of Hawaii 1976, is amended to read as follows:

"Item No.	Program and Capital Project	FY 1975-1976	FY 1976-1977	Total Biennium 1975-1977
1	State Capitol Complex, Oahu Renovation of the Kekuanao'a Building, the Kapuaiwa Building, and Aliiolani Hale to provide additional office space for use by the Judiciary.			

Item No.	Program and Capital Project	FY 1975-1976	FY 1976-1977	Total Biennium 1975-1977
	Design	54	2	56
	Construction		1461	1461
	Total Funding	54C	1463C	1517C
2	Advance Planning, Judiciary Statewide			
	Advance planning to establish the statewide physical facility needs of the Judiciary, and the preparation of staff studies relating to physical facilities.			
	Design	10	10	20
	Total Funding	10C	10C	20C
4	Honolulu District Court			
	Land acquisition and design, to provide for a new facility for Honolulu District Court and related Judiciary services.			
	Land Acquisition	1020		1020
	Design	68	198	266
	Total Funding	1088C	198C	1286C "

SECTION 6. Part III-A of Act 197, Session Laws of Hawaii 1975, as amended by Act 233, Session Laws of Hawaii 1976, is amended to read as follows:

**"PART III-A. Additional Capital Improvement Projects**

SECTION 8A. The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated or authorized, as the case may be, to be expended by the Judiciary out of moneys in the state treasury received from general obligation bond funds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein; provided that the sum total of the general obligation bonds so issued shall not exceed \$3,004,000. The appropriations and authorizations in this Part III-A include land purchase, plans, site preparation, improvements to land, construction and necessary equipment. (In thousands of dollars.)

Item No.	Program and Capital Project	Program ID	FY 1975-1976	FY 1976-1977	Total Biennium 1975-1977
<b>THE JUDICIAL SYSTEM</b>					
	Support Services (to be expended by the Judiciary)				
	Administrative Director Services	JUD 201			
1	State Judiciary Complex, Oahu To construct a new State Judiciary complex in the vicinity of the State Capitol complex.			2,700C	2,700C
2	Minor CIP—Statewide To alterate, modify and upgrade existing State Judiciary buildings to support the Judiciary on a statewide basis.			100C	100C
	Court Operations				
	Circuit Courts				
3	Renovation of Second Circuit Court building — Wailuku, Maui To accommodate additional judge and staff for Circuit Court of the Second Circuit.			194C	194C
	District Courts				
4	Wahiawa District Court To provide new district court in Wahiawa Civic Center.			10C	10C"

## ACT 14

SECTION 7. Section 9 of Act 197, Session Laws of Hawaii 1975, as amended by Act 233, Session Laws of Hawaii 1976, is amended to read as follows:

"SECTION 9. General obligation bonds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part III of this Act and designated to be financed from the general obligation bond fund, provided that the sum total of the general obligation bonds so issued shall not exceed \$2,990,000."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the Revisor of Statutes need not include the brackets, the bracketed material or the underscoring. Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Acts 195 and 197, Session Laws of Hawaii 1975, as amended, not repealed or modified by this Act.\*

SECTION 9. This Act shall take effect upon its approval.

(Approved June 23, 1977.)

## ACT 14

S.B. NO. 2

A Bill for an Act Relating to the State Post-Secondary Education Commission.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 305H-2, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 305H-2 Commission's powers and authorities.** The commission may cooperate with the United States department of health, education and welfare in order to qualify the State to receive funds made available under the Higher Education Act of 1965, as amended by P. L. 92-318, and as it may be amended from time to time and in addition may serve as the state agency for the receipt of federal funds where the federal legislation dealing with higher education or post-secondary education requires as a condition of state receipt of such funds, the designation of a state agency which is broadly representative of the general public and of post-secondary education in the State and where agencies other than the commission created by this chapter may not qualify. The commission shall establish appropriate rules and regulations not inconsistent with this chapter as may be required to administer the receiving and disbursement of funds. The rules shall be adopted in accordance with chapter 91.

No such funds appropriated by the legislature may be used to aid a person attending an institution not owned or exclusively controlled by the State of Hawaii or a department of the State or to pay for any staff-work distributing federal or private funds to students attending such schools."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$260,000 including \$10,000 for temporary help for fiscal

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\*Edited accordingly.

year 1977-78, to be matched with federal and other funds and to be expended and administered by the State post-secondary education commission consistent with this chapter for the purposes of the federal-state student incentive grant program. The commission shall include future appropriation requirements for the purpose of this grant program within the executive budget.

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 27, 1977.)

## ACT 15

S.B. NO. 3

A Bill for an Act Relating to a Renter's Income Tax Credit.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 235- Income tax credit for low-income household renters.** (a) As used in this section:

- (1) "Adjusted gross income" is defined by section 235-1.
- (2) "Qualified exemption" includes those exemptions permitted under this chapter; provided that a person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided that multiple exemption shall not be granted because of deficiencies in vision, hearing, or other disability.
- (3) "Rent" means the amount paid in cash in any taxable year for the occupancy of a dwelling place which is used by a resident taxpayer or his immediate family as the principal residence in this State. Rent is limited to the amount paid for the occupancy of the dwelling place only, and is exclusive of charges for utilities, parking stalls, storage of goods, yard services, furniture, furnishings, and the like. Rent shall not include any rental claimed as a deduction from gross income or adjusted gross income for income tax purposes, any ground rental paid for use of land only, and any rent allowance or subsidies received.

(b) Each resident taxpayer who occupies and pays rent for real property within the State as his residence or the residence of his immediate family which is not partially or wholly exempted from real property tax, who is not eligible to be claimed as a dependent for federal or state income taxes by another, and who files an individual net income tax return for a taxable year, may claim a tax credit under this section against his Hawaii state individual net income tax.

(c) Each taxpayer with an adjusted gross income of less than \$20,000 who has paid more than \$1,000 in rent during the taxable year for which the credit is claimed may claim a tax credit of \$20 multiplied by the number of qualified

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\*Edited accordingly.

exemptions to which he is entitled; provided each taxpayer sixty-five years of age or over may claim double the tax credit.

(d) If a rental unit is occupied by two or more individuals, and more than one individual is able to qualify as a claimant, the claim for credit shall be based upon a pro rata share of the rent paid.

(e) The tax credits shall be deductible from the taxpayer's individual net income tax for the tax year in which the credits are properly claimed; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credits to which they would have been entitled had a joint return been filed. In the event the allowed tax credits exceed the amount of the income tax payments due from the taxpayer, the excess of credits over payments due shall be refunded to the taxpayer; provided that allowed tax credits properly claimed by an individual who has no income tax liability shall be paid to the individual; and provided further than no refunds or payments on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(f) The director of taxation shall prepare and prescribe the appropriate form or forms to be used herein, may require proof of the claim for tax credits, and may adopt rules pursuant to chapter 91.

(g) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(d)(1) shall apply to the tax credits hereunder.

(h) Claims for tax credits under this section, including any amended claims thereof, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 1976.

(Approved June 27, 1977.)

## ACT 16

S.B. NO. 4

A Bill for an Act Relating to a Crime Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that crime in its various manifestations, affects virtually every person in the State, in one way or another. The far-reaching consequences of crime find expression in creating unease and fear among the residents and businesses of the State, unknown measures of distrust among citizens towards both the public and private sectors, feelings of isolation and helplessness in meeting the very real possibility of being victim of a crime, and frustration in dealing with a system which may not be meeting the real crisis of crime.

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\*Edited accordingly.

These types of results are not easily dispelled, nor easily recognized, nor readily quantifiable. Therefore, in the interest of securing public input and opinion to better meet the needs of the State in combatting all types of criminal activity within the State, establishment of a broad-based body, representative of the residents of the State, is a matter of compelling state interest so that the residents of the State can help to achieve, and be provided with a social environment with minimal prospects of criminal activity.

The legislature further finds that the well-being of the residents of the State depends upon maintaining a level of security of the people in their communities sufficiently high to encourage not only confidence in the communities but sufficient to facilitate further development of the communities.

The purpose of this Act is to provide a mechanism for citizen input into governmental activities with regard to crime, through systematic and thoughtful development of new program, review of ongoing programs, investigation, public education, and legislative recommendation functions, to be performed by a crime commission.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **“CHAPTER HAWAII COMMISSION ON CRIME**

**Sec. -1 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Commission” means the Hawaii commission on crime established by this chapter.

“Executive committee” means the executive committee of the Hawaii commission on crime established by section -4.

**Sec. -2 Hawaii commission on crime.** (a) For an eighteen-month period commencing on July 1, 1977 and ending on December 31, 1978, there is established within the office of the lieutenant governor, for administrative purposes, the Hawaii commission on crime.

(b) The commission shall be composed of eleven members, to be appointed by the governor, with the advise and consent of the Senate, and to serve an eighteen-month term. The members shall be representative of the population of the State. The lieutenant governor shall serve as chairman of the commission, and shall not be counted in the eleven-member limit.

(c) The members of the commission shall not be compensated for their services but shall be reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses.

(d) The governor may remove or suspend for cause any member of the commission after due notice and public hearing conducted subject to chapter 91.

**Sec. -3 Hawaii commission on crime, executive officer, staff.** The lieutenant governor shall serve as the executive officer of the commission, and shall be vested with responsibility for the administrative function of the commission. There shall be such additional necessary staff to carry out the

functions of the commission, who shall be hired by and serve at the pleasure of the executive officer, without regard to chapters 76 and 77. The persons so hired shall be entitled to participate in any employee benefit plan normally inuring to civil service employees, but shall not be considered civil service employees.

**Sec. -4 Committees.** (a) There shall be an executive committee of the commission which shall consist of two persons who shall be elected by the commission from among its members. It shall include, in addition, the chairman of the commission, and shall develop and identify general areas for commission study and review, and generally direct the work and activities of the commission.

(b) There shall be, in addition, other special and standing committees of the commission which shall address specific areas or tasks as assigned by the executive committee or by other agreement of the commission.

**Sec. -5 Commission, functions.** The commission shall have the following functions and shall perform the following duties:

- (1) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
- (2) Develop, recommend, and where appropriate, implement programs of public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid occurrence of crime, eliminate the possibility of becoming a victim of crime, and other information designed to defend against any aspect of crime;
- (3) Review and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police, and prosecutorial agencies;
- (4) Review and make recommendations regarding existing substantive laws, procedures, and practices in relation to criminal matters or procedures, and the justice systems;
- (5) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business, and other white collar crimes, and criminal activity;
- (6) Study, develop, and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
- (7) Report, to the legislature prior to the convening of the 1978 legislative session, on its activities of the preceding year and on a program of action for the year 1978;
- (8) Hold public hearings; and
- (9) Perform other functions and duties necessary to carry out the procedures established in Sec. -6 of this chapter.

**Sec. -6 Conduct of business, procedures.** Except where specifically otherwise provided by this chapter, the business and activities of the commission shall be conducted consistent with chapters 91 and 92. The commission shall

possess all powers conferred under such chapters, including the power to subpoena persons and any documents whatsoever. The subpoena power shall be exercised by the chairman of the commission, and such other person as he shall designate therefor.

**Sec. -7 Rules.** The commission may adopt, amend, or repeal rules it deems necessary for the performance of its functions and the implementation of the intent of this chapter. The rules shall be adopted in accordance with chapter 91."

**SECTION 3.** Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-3 Employment of attorneys.** No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund
- (6) To the Hawaii commission on crime;
- (7) In the event the attorney general, for reasons deemed by him good and sufficient, declines such representation or counsel, or approves such department's expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full time basis shall become a deputy attorney general."

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary, for the purposes of this Act, including the hiring of necessary staff, to be expended by the office of the lieutenant governor.

**SECTION 5.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 6.** This Act shall take effect upon its approval.

(Approved June 27, 1977.)

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\*Edited accordingly.

A Bill for an Act Relating to a Constitutional Convention.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Election of delegates.** The chief election officer shall issue a proclamation ordering an election which shall be held on May 20, 1978, for the special election of delegates to a constitutional convention, provided that the election day shall not be a holiday, notwithstanding the provisions of section 8-1, Hawaii Revised Statutes, as amended.

Except as otherwise provided by this Act, the candidates for delegates shall be nominated and their filing fees paid, the special election conducted, the returns made and results ascertained, and the certificates of election issued in the same manner as prescribed by chapter 11, Hawaii Revised Statutes, as amended, governing general elections except that there shall be no primary election.

Any person who is registered as a duly qualified elector shall be eligible to vote in these elections, and shall on the day of the election be entitled to absent himself from any service or employment in which he is then engaged or employed, pursuant to the provisions of section 11-95, Hawaii Revised Statutes, as amended. The general county register shall be closed before the election in the manner set forth in section 11-24, Hawaii Revised Statutes, as amended, for special elections.

Each candidate shall be a qualified elector of the constitutional convention district in which he is a candidate for delegate. The name of no candidate shall be printed upon any official ballot to be used at the special election unless at least 30 days prior to the special election, a nomination paper shall have been filed in his behalf as provided in part I of chapter 12, Hawaii Revised Statutes, as amended, except as modified below, signed by not less than fifteen qualified electors of the constitutional convention district in which he is a candidate. There shall be deposited with each nomination paper a fee of \$25 which shall be paid into the treasury of the State. The lieutenant governor shall provide appropriate nomination papers.

No such nomination paper shall contain any reference to or designation of any political party, and the ballots used at the special election shall be nonpartisan and shall not contain any reference to or designation of the political party or affiliation of any candidate. The names of the candidates in each constitutional convention district shall be listed in alphabetical order on the ballot.

Each voter at the special election shall be entitled to receive a ballot notwithstanding section 12-31, Hawaii Revised Statutes, as amended.

The ballots submitted to the voters of each constitutional convention district shall instruct the voters that the number of candidates to be voted for by such voter shall not exceed the number of delegates to which the constitutional convention district is entitled. The candidates receiving the highest number of votes in the election, not to exceed the number of delegates to which the respective district is entitled, shall be elected as delegates to the convention.

The governor shall fill any vacancy by appointing a qualified voter from the

constitutional convention district in which the vacancy occurs.

The convention shall consist of 102 delegates apportioned among the existing representative districts of the State as follows:

First representative district. Two delegates at large;

Second representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6 and 12; and two delegates from combined precincts of 7, 8, 9, 10, 11, 13 and 14;

Third representative district. Two delegates at large;

Fourth representative district. Two delegates at large;

Fifth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6, 7 and 8; and two delegates from combined precincts of 9, 10, 11, 12, 13, 14 and 15;

Sixth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3, 4, 5, 6, 10, 11, 12 and 13; two delegates from combined precincts of 7, 8, 9, 14, 15 and 16;

Seventh representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Eighth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Ninth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 3, 7 and 8; and two delegates from combined precincts of 2, 4, 5 and 6;

Tenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Eleventh representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 4; and two delegates from combined precincts of 3, 5 and 6;

Twelfth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 3 and 5; and two delegates from combined precincts of 2, 4, 6 and 7;

Thirteenth representative district. Six delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; two delegates from combined precincts of 4, 5 and 9; and two delegates from combined precincts of 6, 7 and 8;

Fourteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 6; and two delegates from combined precincts of 4, 5 and 7;

Fifteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Sixteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 6, 7 and 8; and two delegates from combined precincts of 2, 3, 4 and 5;

Seventeenth representative district. Four delegates to be elected. Two

delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Eighteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 5; and two delegates from combined precincts of 4, 6, 7 and 8;

Nineteenth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twentieth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Twenty-first representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twenty-second representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2, 3 and 4; and two delegates from combined precincts of 5, 6, 7 and 8;

Twenty-third representative district. Two delegates at large;

Twenty-fourth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5 and 6;

Twenty-fifth representative district. Four delegates to be elected. Two delegates from combined precincts of 1, 2 and 3; and two delegates from combined precincts of 4, 5, 6 and 7;

Twenty-sixth representative district. Two delegates at large;

Twenty-seventh representative district. Six delegates to be elected. Two delegates from combined precincts of 1, 10, 11, 12 and 13; two delegates from combined precincts of 8 and 9; two delegates from combined precincts of 2, 3, 4, 5, 6 and 7.

**SECTION 2. Convening of convention.** The delegates to the convention thus selected shall meet at Honolulu on the 5th day of July 1978, at a suitable place designated by the governor, and the delegates shall proceed with the organization of the convention, provided that the legislative offices in the State Capitol Building shall not be used for the purposes of the convention. The delegate with the highest number of votes from the first representative district shall serve as temporary chairman.

**SECTION 3. Powers.** In addition to its inherent powers under the Constitution, the Convention may exercise the powers of the legislative committees as provided for by chapter 21, Hawaii Revised Statutes, as amended, and may appoint staff members without regard to chapters 76 and 77, Hawaii Revised Statutes, as amended, and contract for the legal and consultative services of qualified persons as it may require.

Officers and employees of the State shall have the same duty to the convention as prescribed by section 21-16, Hawaii Revised Statutes, with respect to legislative committees.

**SECTION 4. Immunity.** Delegates to the convention shall in all cases,

except felony or breach of the peace, be privileged from arrest during attendance at the convention and in going to and returning from the same.

**SECTION 5. Salaries and allowances for delegates.** Delegates to the convention shall be entitled to a salary of \$1,000 a month, but not more than \$4,000 for the convention, plus allowance of \$10 per diem for Oahu delegates and \$30 per diem for neighbor island delegates.

The salary payments to delegates shall be \$500 semi-monthly, the first payment for the period beginning May 21, 1978. State and county employees who are elected and serve as delegates shall have leave, without pay, from their employment from the day after the election until the convention adjourns, and they shall be entitled to the salaries and allowances for delegates hereunder.

**SECTION 6. Ratification election.** Unless the convention determines otherwise, any constitutional revision or amendment proposed by the convention shall be submitted to the electorate at the general election of November, 1978.

**SECTION 7. Appropriations.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary, to the office of the governor, or to the officers elected by the delegates if so designated by the governor, for defraying the presession, session, and postsession expenses of the constitutional convention, including the payment of compensation to the delegates to the convention, and for such other expenses or purposes pursuant to this Act as may be necessary.

There is appropriated out of the general revenues of the State the sum of \$485,599, or so much thereof as may be necessary, to the office of the lieutenant governor for the purpose of conducting the election of delegates to the constitutional convention.

There is appropriated out of the general revenues of the State the sum of \$8,500, or so much thereof as may be necessary, to the campaign spending commission for the purpose of supervising campaign contributions and expenditures.

There is appropriated out of the general revenues of the State the sum of \$72,000, or so much thereof as may be necessary, to the office of the legislative reference bureau for the expenses of providing the necessary services and assistance for the convention, including the updating of the Hawaii Constitutional Convention Studies.

**SECTION 8.** If any provisions of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 9.** This Act shall take effect on July 1, 1977.

(Approved June 27, 1977.)

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 87-4 State and county contributions to the fund.** The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$10 for each of their respective employee-beneficiaries and \$30 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan, provided, that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall be \$30 for both of them.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [~~\$3.26~~] \$3.74 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the payment of group life insurance benefits for each employee.

The several counties through their respective departments of finance shall annually reimburse the State no later than December 30 of each fiscal year for their respective pro rata share of the cost of administering the fund for the fiscal year for the benefit of their employee-beneficiaries and dependent-beneficiaries. Each county's pro rata share shall be determined by allocating the amount appropriated for administering the fund for the fiscal year, after excluding therefrom state and county contributions for hospital, medical and surgical benefits, dental benefits, and group life insurance benefits, in the same proportion as the aggregate annual amount of state and county contributions for such benefits as of October 31 of the preceding fiscal year. The amount of any excess or deficiency required to administer the fund shall be subtracted from or added to, as the case may be, the amount due from each county for the succeeding fiscal year.

Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

SECTION 2. There is hereby appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance for the 1977-78 biennium the sum of \$354,000 or so much thereof as may be necessary for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Act shall take effect on July 1, 1977.

(Approved June 27, 1977.)

ACT 19

H.B. NO. 6

A Bill for an Act Relating to Farm Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 155-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 155-8 Direct loans.** (a) The department of agriculture may make loans directly to qualified farmers who are unable to obtain sufficient funds at reasonable rates from private lenders either independently or under sections 155-5 and 155-6, or from the Farmers Home Administration either directly or under section 155-7.

(b) Loans made under this section shall be limited by sections 155-9 to 155-13.

(c) Loans made under this section shall bear simple interest on the unpaid principal balance, charged on the actual amount disbursed to the borrower. Interest on all classes of loans shall not be more than the sum of one per cent above the lowest rate of interest charged by all banks, either commercial banks within the meaning of section 403-3, or national banks excepted under section 403-10, doing business in the State, on unsecured short term loans made to borrowers in the State, who have the highest credit rating with such banks; provided, if the money loaned is borrowed by the department, then the interest on loans of such classes shall not exceed the rate of interest set by the board of agriculture, as provided for within this chapter or one per cent over the cost to the State of borrowing the money, whichever is greater.

(d) For loans made under this section, funds shall be disbursed in accordance with regulations of the department."

SECTION 2. In addition to any loans under Section 1 of this Act the department of agriculture shall make loans to independent sugar growers as provided in this Section. As used in this section, "independent sugar grower" means a grower of raw sugar, testing 96 sugar degrees by the polariscope, determined in accordance with regulations of the United States Department of Agriculture; provided that this term shall not include any producer of sugar, other than as a member of a processing cooperative, who processes his own sugar cane; provided further that as to the grower, sugar production shall not exceed 3,000 tons per year.

The department of agriculture shall make loans to independent sugar

growers under this section at an interest rate not to exceed two per cent per year for which no collateral shall be required and there shall be no limit on the amount of a loan to the independent sugar growers as defined herein. The loans shall be made to independent sugar growers upon such terms as provided by rules adopted by the department of agriculture under chapter 91, Hawaii Revised Statutes. The loans shall be administered by the farm loan division of the department of agriculture. In making such loans the department of agriculture shall follow the intent of the legislature that loans made under this section are to assist independent sugar growers with supplemental direct loans to cover deficits through this time period in which there are insufficient national protections concerning sugar importation. The term deficit as used herein shall include (1) any shortages for repayment of loans made by commercial lending institutions for crop production expenses which shall be repaid from revenues of sugar crop harvest and (2) that portion of the total loan required for production expenses, but which amount is not available from commercial lending institutions without requiring collateral other than the crop itself, for crop plantings over the next 24 months. Loans shall be made under this section for a period of not more than twenty-four months after the effective date of this Act.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary, for the purposes of making farm loans to independent sugar growers as provided in section 2 of this Act. The sum appropriated shall be expended by the department of agriculture for the purposes of this Act. All sums appropriated under this section which are not expended or encumbered twenty-four months after the effective date of this Act shall lapse.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved July 5, 1977.)

ACT 20

H.B. NO. 13

A Bill for an Act Relating to Motor Carriers, Motor Carrier Vehicles, and Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**"PART . MOTOR CARRIER SAFETY LAW**

**Sec. 286- Definitions.** As used in this part unless the context otherwise requires:

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\*Edited accordingly.

- (1) "Director" means the director of transportation.
- (2) "Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle. When there is no value specified by the manufacturer as the loaded weight of a single vehicle, the value shall be determined in accordance with rules adopted by the director.
- (3) "Motor carrier vehicle" means any motor vehicle or vehicle, including integrally mounted equipment and specially constructed motorized equipment, used by a motor carrier to transport passengers or property on the public highways.
- (4) "Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property by motor vehicle, all as defined in section 271-4.

**Sec. 286- General duties and powers of the director.** The general duties and powers of the director shall be:

- (1) To establish rules and regulations promoting the safety of operations, motor vehicle and equipment of motor carriers; provided that the maximum hours of service to be performed by an operator of a motor carrier vehicle shall be determined by the director based on conditions existing in the State or in particular sections of the State and shall be compatible with those prescribed by the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation.
- (2) To coordinate the various motor carrier safety programs in the State including the formulation of statewide standards as necessary.
- (3) To develop and implement, on a priority basis, a recordkeeping and information system for the motor carrier safety program.
- (4) To develop standards relating to the qualification of motor carrier vehicle drivers.
- (5) To establish standards for continuous driver training and periodic evaluation of the driver performance of motor carrier vehicle drivers pursuant to section 286-108.5.
- (6) To establish standards for motor carrier vehicle safety inspection, motor carrier vehicle inspection stations, and motor carrier vehicle inspection personnel.
- (7) To revise and update the standards relating to motor carrier vehicle maintenance and establish a system for the enforcement of such standards.
- (8) To develop the standards for size and weight of vehicles, including motor carrier vehicles, pursuant to chapter 291.
- (9) To establish standards for the issuance of special permits to carry oversized and overweight loads on the highway.
- (10) To establish standards for the transportation of hazardous materials on the highways.
- (11) To develop comprehensive regulations governing the modification of motor carrier vehicles which will at any time be operated upon the highway.

- (12) To review and approve all plans and specifications for construction in the State or modification of motor carrier vehicles which will at any time be operated upon the highway.
- (13) To adopt rules pursuant to chapter 91 necessary for the purposes of this part.
- (14) To investigate all motor carrier vehicle accidents under this part resulting in death of a human being or other accidents as the director determines necessary to advance the motor carrier safety program.

**Sec. 286- Enforcement.** For purposes of this part, the director may delegate the enforcement of any part of the rules adopted by the department to the executive officers of each county and any other state agency having responsibilities relating to the operation of motor vehicles or the authorized representative of such agency pursuant to the powers and duties vested in him under this part.

**Sec. 286- Accounts, records, and reports.** (a) The director may require annual, periodic, or special reports from all motor carriers, prescribe the manner and form in which the reports shall be made, and require from the carriers specific and full, true, and correct answers to all questions which the director may deem necessary for the safety regulation of motor carrier vehicles.

(b) The director may prescribe the forms of any and all records and memoranda to be maintained by motor carriers as related to safety of motor carrier operations. The director or his duly authorized representative shall at all reasonable times and places have access to and authority, under his order, to inspect and examine any and all equipment of motor carriers and shall have authority to inspect and copy any and all books, records, memoranda, and other documents as are related to the safety of motor carrier operations.

(c) Each motor carrier operating vehicles in the State shall keep all records and reports required by this section at an office or place of business located within the State.

**Sec. 286- Reports as evidence.** Any report by any motor carrier of any accident occurring in the course of its operation, made pursuant to any requirement of the director or any other lawful authority, and any report by the director or any police department of any such vehicle accident, may be admitted as evidence in any suit or action for damages growing out of any matter mentioned in the report or investigation.

**Sec. 286- Penalty.** Unless indicated otherwise, any motor carrier or any agent, employee, or representative thereof, who wilfully and knowingly fails, neglects or refuses to perform any act required by this part or by rules adopted by the director under this part shall be fined not more than \$2,000 for each separate offense. Each date of violation shall constitute a separate offense. An action to impose or collect the penalty provided in this section shall be considered a civil action.

**Sec. 286- Exemptions, certain small vehicles.** This part shall not apply to the following vehicles, if such vehicles are in compliance with safety ordinances and rules of the county in which they operate and other applicable State safety

laws and rules:

- (1) The type of passenger carrying vehicle known as a "sampan bus" within a radius of twenty miles from the City of Hilo, Hawaii;
- (2) Station wagons for the carriage of property;
- (3) Trucks, truck trailers, trailers or other nonpassenger carrying equipment having a gross vehicle weight rating of 10,000 pounds or less;
- (4) Taxicabs as described in section 271-5(3)(B);
- (5) Passenger carrying vehicles with a seating capacity of nine or less used for the transportation of employees to and from the jobsite;
- (6) Passenger carrying vehicles used by employees solely for their own transportation to, from, and during work;
- (7) Passenger carrying vehicles with a gross vehicle weight of 10,000 pounds or less used in car or van pools for the movement of passengers to and from work.

**Sec. 286- Exemptions, vehicles used by farmers.** This part shall not apply to motor vehicles used by a farmer exclusively for his farm operations or to motor vehicles used by a farmer who only infrequently transports from the place of production to a warehouse, regular market, place of storage, or place of shipment, the farm products of neighboring farmers in exchange for like or reciprocal services, for farm products, or for a cash consideration not exceeding \$1,500 per year; provided that the transportation of farm produce shall constitute the sole transportation of property for hire or compensation and; provided further that each motor vehicle so used complies with the safety ordinances and rules of the county in which it is operated and other applicable state safety laws and rules.

**Sec. 286- Safety inspection of motor carrier vehicles.** (a) Motor carrier vehicles including but not limited to trucks, truck-tractors, semitrailers, trailers, or pole trailers having a gross vehicle weight rating of more than 10,000 pounds shall be inspected and certified once every six months.

(b) The director shall adopt rules pursuant to chapter 91 for motor carrier vehicle safety inspections, the issuance of certificates of safety inspection, the affixing of motor carrier vehicle safety inspection decals and the acceptance of certificates of safety inspection issued in other jurisdictions.

(c) The director shall collect a fee of \$1.50 for each motor carrier vehicle safety inspection decal issued by motor carrier vehicle inspection stations. All moneys collected shall be paid into the State highway fund.

(d) A fee of no more than \$7 shall be charged by a motor carrier inspection station for each safety inspection performed.

**Sec. 286- Operation of a motor carrier vehicle without a safety inspection decal.** Whoever operates, permits the operation of, causes to be operated, or parks any motor vehicles on a public highway without a current motor carrier vehicle safety inspection decal issued under section 286- , shall be fined \$100 for each of said violation or imprisoned not more than thirty days, or both.

**Sec. 286- Permits to operate official inspection stations.** (a) The director shall issue permits for and furnish instructions and all forms to official

inspection stations. The stations shall operate pursuant to standards established by the director.

(b) Application for an official inspection station permit shall be made upon an official form and shall be granted only when the director is satisfied that the station is properly equipped and has competent personnel to make the required inspections. Before issuing a permit, the director shall require the applicant to file proof that he has, in effect, a liability insurance policy, issued to him by an insurance company, authorized to do business in the State, insuring against the liability of the applicant and any of his employees, in minimum amounts as follows: comprehensive public liability insurance in the amount of \$10,000 for one person and \$20,000 for one accident and comprehensive property damage insurance of \$5,000, provided that the director may, by rules and regulations, set higher limits; provided that the proof of insurance need not be filed by an applicant who inspects only vehicles owned by the applicant; and provided further that the proof of insurance need not be filed by instrumentalities of the United States.

(c) A permit for an official inspection station shall not be assigned or transferred or used at any location other than that designated by the director and every permit shall be posted in a conspicuous place at the location so designated.

**Sec. 286- Suspension or revocation of permits.** The director shall supervise and cause inspections to be made of official inspection stations and shall suspend or revoke and require the surrender of the permit issued to a station which he finds is not properly conducting inspections. The director shall maintain and post at the department lists of all stations holding permits and those whose permits have been suspended or revoked.

**Sec. 286- Improper representation as official inspection station.** Any person who in any manner represents that the business operated at any location is an official inspection station without a permit issued by the director under section 286- , or any person other than a person operating an inspection station under a permit granted by the director who issues a certificate of inspection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

**Sec. 286- False certificates.** Any person who makes, issues, or knowingly uses any imitation or counterfeit of an official certificate of inspection, or any person who displays or causes or permits to be displayed upon any vehicle any certificate of inspection knowing the same to be issued for another vehicle or issued without an inspection having been made or issued without authority as provided herein shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

**Sec. 286- Gross weight fee, and other fees and charges.** (a) In addition to all other fees to be paid by him, every motor carrier, except government agencies, shall pay to the director each year at the time of, in connection with, and before receiving his gross weight identification emblem or his identification plate for each motor vehicle owned or operated by him based upon the gross vehicle weight rating thereof, the following fees for each calendar year or portion thereof remaining:

Less than 4,000 lbs. .... \$7  
 4,000 lbs. or more and less than 6,000 .... \$8  
 6,000 lbs. or more and less than 8,000 .... \$9  
 and continuing with increments of \$1.00 for every additional 2,000 pounds up to 60,000 pounds gross weight. Vehicles with a gross vehicle weight of 60,000 pounds or more shall pay a flat fee of \$36. Where the full amounts of the fees are not needed for any calendar year, the director may determine fees of lesser amounts to be necessary and reasonable for the year and may vary the schedule accordingly. The emblem shall be affixed in a conspicuous place upon the motor vehicle as prescribed by the director and shall be so displayed through the year. Any transfer or substitution of any emblem shall be unlawful.

(b) The director shall establish fair and reasonable fees for applications for approval of plans and specifications for construction or modification of a motor vehicle or class of motor vehicles in Hawaii which will at any time be operated upon the highways as provided in section 286- (12).

**Sec. 286- Fines, fees and charges.** All moneys collected under this part shall be paid into the State highway fund and shall be expended for the purpose of this part."

SECTION 2. Section 271-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 271-5 Exemptions, generally.** Notwithstanding any other provisions of this chapter, its contents shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.
- (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided, that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engaged in the transportation of persons other than those exempted in this paragraph, that portion of their operation shall not be exempt from the provisions contained in this chapter. Nothing herein shall be construed to authorize any person to engage in the transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or a certificate issued by the commission authorizing such transportation.
- (3) Persons operating taxicabs or other motor vehicles utilized in performing a bona fide metered taxicab service. "Taxicab" means and includes:
  - (A) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and

- (B) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, as defined in section 70-1, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area.
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269.
  - (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.
  - (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.
  - (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters or blueprints.
  - (8) Persons operating funeral cars or ambulances.
  - (9) Persons operating motor vehicles in the transportation of garbage or refuse.
  - (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii.
  - (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.
  - (12) Sugar plantations transporting sugar cane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pursuant to contracts administered by the United States Department of Agriculture.
  - (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire.
  - (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading.
  - (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading.

- (16) Persons engaged in transporting not more than fifteen passengers between their places of abode, or termini near such places, and their places of employment in a single daily round trip where the driver is also on his way to or from his place of employment."

SECTION 3. Section 271-6, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 271-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 271-7 Exemptions, vehicles used by farmers.** Notwithstanding any other provisions of this chapter all motor vehicles used by farmers exclusively for their farm operations and all motor vehicles used by farmers who infrequently transport from the place of production to a warehouse, regular market, place of storage, or place of shipment, the farm products of neighboring farmers in exchange for like or reciprocal services, for farm products, or for a cash consideration not exceeding \$1,500 per year; provided, that the transportation shall constitute the sole transportation of property for hire or compensation of the farmers are exempted from this chapter."

SECTION 5. Section 271-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 271-9 General duties and powers of the commission** (a) The general duties and powers of the public utilities commission shall be:

- (1) To regulate common carriers by motor vehicle, and to that end the commission shall establish reasonable requirements with respect to continuous and adequate service, leasing of motor vehicles, uniform system of accounts, records, and reports, and preservation of records.
- (2) To regulate contract carriers, by motor vehicle, and to that end the commission shall establish reasonable requirements with respect to leasing of motor vehicles, uniform system of accounts, records, and reports, and preservation of records.
- (3) To administer, execute, and enforce this chapter, to make all necessary orders in connection therewith, and to prescribe rules, regulations, and procedures for the administration.
- (4) For purposes of the administration of this chapter, to inquire into the management of the business of motor carriers, and into the management of the business of persons controlling, controlled by, or under common control with, motor carriers to the extent that the business of these persons is related to the management of the business of one or more motor carriers, and the commission shall keep itself informed as to the manner and method in which the same are conducted, and may obtain from the carriers and persons such information as the commission deems necessary to carry out the provisions of this chapter.

(b) The commission may from time to time establish such just and reasonable classifications of groups of carriers included in the term "common carrier by motor vehicle" or "contract carrier by motor vehicle", as the special nature of the services performed by the carriers shall require, and such just and reasonable rules, regulations, and requirements, consistent with this chapter, to be observed by the carriers so classified or grouped, as the commission deems

necessary or desirable in the public interest.

(c) Upon complaint in writing to the commission by any person or body politic, or upon its own initiative without complaint, the commission may investigate whether any motor carrier has failed to comply with any provision of this chapter, or with any regulation, requirements, or order established or issued pursuant thereto. If the commission, after notice and hearing as prescribed in section 271-31, finds upon any investigation that the motor carrier has failed to comply with any provision, regulation, requirements, or order, the commission shall issue an appropriate order to compel the carrier to comply therewith. Whenever the commission is of the opinion that any complaint does not state reasonable grounds for investigation and action on its part, it may dismiss the complaint."

SECTION 6. Section 271-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Whenever the public utilities commission inquires into the operations, operating rights, rates, or directs inquiry and investigation into motor carrier activities regulated under this chapter, and holds public hearing thereon, it shall make a report in writing in respect thereto, which shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises."

SECTION 7. Section 271-36, Hawaii Revised Statutes, is amended to read:

**"Sec. 271-36 Feeds and charges.** (a) Every common carrier by motor vehicle and every contract carrier by motor vehicle, shall pay to the commission in April in each year, a fee which shall be equal to one-eighth of one per cent of the gross revenues from carrier's business during the preceding calendar year or the sum of \$10, whichever is greater. Gross revenues include all revenues received from services connected with or incidental to transportation services as described in section 271-4(6), and (7).

(b) The commission shall establish fair and reasonable fees for the following applications which shall be paid to the commission at the time of submission to it of the applications:

- (1) Applications for certificates and permits as provided by sections 271-12 and 271-13.
- (2) Applications for extensions of certificates as provided by section 271-12(d).
- (3) Applications for temporary certificates and permits as provided by section 271-16.
- (4) Application for authority to sell, lease, assign, encumber, merge, etc., the property necessary or useful in the performance of duties to the public or certificates or permits or to purchase motor carrier stock, etc., as provided in section 271-18.

(c) The commission may charge an amount it deems necessary and reasonable to defray the cost of supplying to the carriers and the public the application forms and other forms, schedules, tariffs, copies of regulations, and other pamphlets and materials it provides either by the individual copy or in bulk.

(d) All of the fees and charges collected under this section shall be paid into the treasury of the State."

SECTION 8. Chapter 286, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**"PART . MOTOR VEHICLE REGULATION**

**"Sec. 286- Powers and duties.** The director of transportation shall prescribe uniform standards and procedures for motor vehicle inspection, driver licensing, and registration, including the form and content of records to be maintained for the registration of vehicles and for the licensing of drivers.

**Sec. 286- Enforcement.** The director of transportation shall have such powers and duties of enforcement of statutes and of rules adopted by him as are necessary to implement this part. The director may delegate the enforcement of this part to the county executive officers.

**Sec. 286- Rules.** The director of transportation shall adopt rules pursuant to chapter 91 necessary for the purposes of this part."

SECTION 9. Section 286-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-3. Powers and duties of the governor.** The governor, in addition to other duties and responsibilities conferred upon him by the Constitution and laws of the State, may contract and do all other things necessary in behalf of the State to promote traffic safety. To that end he shall coordinate the activities of the State and its counties.

The governor may delegate duties and functions conferred upon him by this chapter to the director of transportation appointed under the authority of section 26-31 who shall also be designated as the governor's highway safety representative."

SECTION 10. Section 286-4, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 286-26, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-26 Certificates of inspection.** (a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Motor vehicles ten years of age or older,
- (2) Ambulances,
- (3) Trucks, truck-tractors, semitrailers, or pole trailers having a gross vehicle weight rating of more than 10,000 pounds,
- (4) Buses,
- (5) Rental or U-drive motor vehicles,
- (6) Taxi cabs.

(b) All other vehicles, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months.

(c) Any vehicle which has been involved in an accident, when it is determined by a police officer that the vehicle's equipment has been damaged so as to render the vehicle unsafe, shall be so certified before it is operated again.

(d) Every vehicle shall be certified prior to the issuance of a temporary or permanent registration by the treasurer and prior to the transfer of any

registration; provided that this requirement shall not apply to a subsequent transfer of registration in a vehicle which carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued on a vehicle, an inspection as prescribed by the director under subsection (f) shall be conducted on the vehicle and if the vehicle is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the board of supervisors or council of each county. A sticker, authorized by the director, shall be affixed to the vehicle at the time a certificate of inspection is issued.

(f) The director shall adopt necessary rules and regulations for the administration of inspections, the issuance of certificates of inspection, and the acceptance of certificates of inspection issued in other jurisdictions.

(g) This section shall not apply to any motor vehicle which is covered by part \_\_\_\_\_ of this chapter, governing safety of motor carrier vehicle operation and equipment; provided the rules adopted pursuant to part \_\_\_\_\_, impose standards of inspection at least as strict as those imposed under subsection (f), and that certification is required at least as often as provided in subsections (a), (b), (c), and (d)."

SECTION 12. Wherever necessary to conform with the purposes of this Act, chapter 286 and such other chapters or sections of the Hawaii Revised Statutes are amended by substituting the "state director of transportation" for the "state highway safety coordinator" or any other person heretofore charged with motor vehicle safety.

SECTION 13. All officers and employees of the public utilities commission whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer.

SECTION 14. All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the public utilities commission or any other state or county agency relating to the functions transferred to the department or the director of transportation shall be transferred with the functions to which they relate.

SECTION 15. There is appropriated and authorized out of the state highway fund for highway safety (TRN 595) \$271,276 (12) for the fiscal year 1977-1978 and \$261,988 (12) for the fiscal year 1978-1979 or so much thereof as may be necessary, for the purposes of this Act. The sums appropriated shall be expended by the director of transportation with the approval of the governor to establish and fund positions shown parenthetically and for any other purpose of this Act.

SECTION 16. Any rule or order, including PUC general order number two, adopted or issued under any law affected by this Act and in effect on the effective date of this Act and not in conflict with it shall continue in effect until modified, superseded or repealed.

SECTION 17. Statutory material to be repealed is bracketed. New material

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 18. This Act shall take effect on July 1, 1977.

(Approved July 5, 1977.)

## ACT 21

H.B. NO. 16

A Bill for an Act Relating to Regional Design Plans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The title to Chapter 57, Hawaii Revised Statutes, is amended to read as follows:

### **"URBAN AND REGIONAL DESIGN"**

SECTION 2. Chapter 57, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 57-1 Findings and purpose.** The legislature finds that the environment in the State has deteriorated; resort development is often scattered; the visual impact of new development is often ill considered; historic sites are often infringed upon; buildings of significant architectural, cultural or historic value are disappearing; and injudicious development mars the scenic landscape which is Hawaii's priceless asset. The purpose of this chapter is to provide for the development of urban and regional design plans for each county to facilitate quality design in future development and construction, both public and private. As used in this chapter the term "regional" may encompass or exclude urban areas.

**Sec. 57-2 Urban and regional design plans.** Each county shall prepare one or more urban and regional design plans to cover all areas designated for urban and regional design review in the county. The preparation of the design plans for each design area shall consider the following plan elements and design control measures:

- (1) The land uses permitted by the general plan and zoning;
- (2) Pedestrian and vehicular circulation systems;
- (3) Necessary and desirable public and private community facilities;
- (4) Historic sites, significant natural land and water features, and views and vistas which must be protected and enhanced;
- (5) Basic concepts of environmental character, including architectural character, by the following design controls:
  - (A) Height limitations should bear a relationship to the natural land features and views which are to be protected under the plan. Structure heights should not compete with natural land forms nor should buildings interrupt those views which should be available to other property owners or the public at large.

\*Edited accordingly.

- (B) Density controls should govern the number of hotel and dwelling units to prevent excessive concentrations of people which would alter the intended character and integrity of resort and historical areas.
- (C) Maximum land and building coverage ratios should be developed to provide adequate open space around all structures and to allow for necessary ancillary uses related to the main use of the premises. Sufficient public or private green space should be provided to avoid the character of a "concrete jungle".
- (D) Buildings and structures should be restrained from encroaching upon the shoreline and other designated land forms as well as street and road right-of-way. Manmade features on the land should not be in conflict with natural formations along the shoreline.
- (E) Basic building materials and colors should reflect the historical, cultural and natural setting of the area. Structures, natural land forms, and plant material should blend as a unified design.
- (F) Signs should be regulated with respect to location, size, color, lighting, and message. Signs should be treated as an integral unit in a design so as to be attractive and an accepted composition element.

**Sec. 57-3 Implementation of design plans.** Each county shall develop appropriate methods of implementing its design plans. It may program the design plan into a series of actions or projects with assigned priorities that will reflect a systematic method for ultimate design plan accomplishment. Each county shall submit an annual progress report in September of each year to the office of the governor and the legislature. Each county, through its chief executive, may designate the county agency most appropriate to carry out the purposes of this chapter. Citizen participation shall be encouraged during the preparation and implementation of urban and regional design plans.

**Sec. 57-4 Funding.** Appropriate state and federal funds, as available, may be used to match county funds to prepare the urban and regional design plants."

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii, the sum of \$125,000 for fiscal year 1977-78 for the purposes of this Act.

The sum appropriated shall be expended by the department of planning and economic development.

**SECTION 4.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

**SECTION 5.** This Act shall take effect upon its approval.

(Approved July 5, 1977.)

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\*Edited accordingly.

# **TABLES SHOWING EFFECT OF ACTS**

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## **GENERAL INDEX**

TABLES SHOWING EFFECT OF ACTS  
NINTH LEGISLATURE, REGULAR AND  
FIRST SPECIAL SESSIONS OF 1977  
STATE OF HAWAII

Key: Am = Amended

N = New

R = Repealed

Ree = Reenacted

Ren = Renumbered

Sp = Special Session

\_\_\_\_\_ = Section number to be assigned in HRS  
Supplement

[ ] = Numbers as assigned in 1976 Replace-  
ment Volumes

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<sup>1</sup> Effective January 1, 1978

<sup>4</sup> Effective January 1, 1980

<sup>5</sup> Effective January 1, 1980, but see §9, Act 139.



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<sup>1</sup> Effective January 1, 1978<sup>2</sup> Effective December 31, 1978<sup>3</sup> Effective December 31, 1979<sup>6</sup> Effective December 31, 1980

<sup>7</sup> Effective December 31, 1981

<sup>8</sup> Effective December 31, 1982

<sup>9</sup> Effective December 31, 1983

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<sup>1</sup> Effective January 1, 1978

<sup>2</sup> Effective December 31, 1978

<sup>3</sup> Effective December 31, 1979

<sup>6</sup> Effective December 31, 1980

<sup>7</sup> Effective December 31, 1981

<sup>8</sup> Effective December 31, 1982

<sup>9</sup> Effective December 31, 1983

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